



Jeremiah W. (Jay) Nixon, Governor • Harry D. Bozoian, Director

DEPARTMENT OF NATURAL RESOURCES

dnr.mo.gov

NOV 28 2016

Mr. Mark Hague
Regional Administrator
U.S. EPA, Region VII
11201 Renner Boulevard
Lenexa, KS 66219

Dear Mr. Hague:

The Missouri Department of Natural Resources requests that the U.S. Environmental Protection Agency amend the Missouri State Implementation Plan (SIP) to replace the following current rule(s) in the SIP.

10 CSR 10-6.210 Confidential Information

This amendment clarifies the procedures for submitting and handling confidential business information, clarifies requirements for granting a claim of confidentiality and which emission data elements will be held confidential, reorganizes the rule into the standard rule organization format, and removes the definitions previously listed in section (3) of the rule since they can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables.

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants

This amendment removes a statement from the compliance and performance testing provisions that does not meet Clean Air Act requirements, adds exemptions for emission units regulated by stricter federal and state regulations or that do not have the capability of exceeding the emission limits of this rule, and adds an alternative test method.

The Missouri Air Conservation Commission adopted the enclosed rule action(s) on August 25, 2016. The commission has full legal authority to develop rules pursuant to Section 643.050 of the Missouri Air Conservation Law. The state followed all applicable administrative procedures in proposing and adopting the rule action(s).

Enclosed are the required SIP submittal elements for determination of plan completeness per 40 CFR Part 51, Appendix V.



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Mr. Mark Hague
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Thank you for your attention to this matter. If you have any questions regarding this submittal, please contact Darcy Bybee, with the Department's Air Pollution Control Program at P.O. Box 176, Jefferson City, MO 65102 or by phone at (573) 751-7840 or email at darcy.bybee@dnr.mo.gov.

Sincerely,

AIR POLLUTION CONTROL PROGRAM



Kyra L. Moore
Director

KLM:ssc

Enclosures:

Copy of rule published in CSR
Copy of commission signature page certifying Missouri Air Conservation Commission adoption
Copy of technical support documentation for rule (if applicable)
Copies of public hearing notices
Copy of public hearing transcript introductory statement
Copy of MO Reg proposed rulemaking
Copy of MO Reg order of rulemaking with comments/responses
Mark-Up of Existing Federally-Approved State Regulation(s)

c: Missouri Air Conservation Commission



~~7. If no exceedances or malfunctions were reported under paragraphs (4)(A)3. through 5. of this rule for the calendar year being reported, a statement that no exceedances occurred during the reporting period.~~

~~8. Any use of the bypass stack, the duration, reason for malfunction, and corrective action taken.~~

~~(D) The owner or operator of an HMIWI shall submit to the department semiannual reports containing any information recorded under paragraphs (4)(A)3. through 5. of this rule no later than sixty (60) days following the reporting period. The first semiannual reporting period ends six (6) months following the submission of information in subsection (4)(B) of this rule. Subsequent reports shall be submitted to the department no later than six (6) calendar months following the previous report. All reports shall be signed by the facilities manager.~~

~~(E) All records specified under subsection (4)(A) of this rule shall be maintained on site in either paper copy or computer-readable format, unless an alternative format is approved by the department.~~

~~(F) The owner or operator of an HMIWI shall submit an annual report to the department containing information recorded under subparagraph (4)(A)2.Q. of this rule no later than sixty (60) days following the year in which data were collected. Subsequent reports shall be sent no later than twelve (12) calendar months following the previous report (once the unit is subject to permitting requirements under Title V of the Clean Air Act, the owner or operator must submit these reports semiannually). The report shall be signed by the facilities manager.~~

~~(5) Test Methods. Test methods can be found in subparagraphs (3)(E)2.A. through L. of this rule.~~

AUTHORITY: section 643.050, RSMo Supp. 2013. Original rule filed Dec. 1, 1998, effective July 30, 1999. Amended: Filed Oct. 13, 2000, effective July 30, 2001. Amended: Filed Nov. 26, 2010, effective Aug. 30, 2011. Amended: Filed Nov. 1, 2013, effective July 30, 2014.*

**Original authority: 643.050, RSMo 1965, amended 1972, 1992, 1993, 1995, 2011.*

10 CSR 10-6.210 Confidential Information

PURPOSE: This rule provides procedures and conditions for handling confidential information.

(1) Applicability. This rule shall apply to all business information requested to be designated confidential under Chapter 643, RSMo.

(2) Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

(3) General Provisions. Any information or records submitted or obtained pursuant to Chapter 643, RSMo, is subject to public disclosure unless a request for confidentiality is made by the person submitting the information or records and the request has been approved pursuant to the following procedures:

(A) Procedures.

1. An owner or operator who wishes to claim confidentiality for any information submitted pursuant to this rule or other rules of the commission should submit a claim of confidentiality when the information is initially submitted. Failure to submit a claim of confidentiality when the information is initially submitted may result in public disclosure.

2. The claim of confidentiality shall be accompanied by a justification that the information is entitled to confidential treatment.

3. When information claimed to be confidential is being submitted with a permit application, emissions report, or any other documentation containing information subject to public disclosure, a separate version that may be viewed by the public shall be provided by the owner or operator.

4. Upon receipt of a claim of confidentiality, the director shall evaluate the claim and inform the owner or operator that the claim has been approved, or that a preliminary decision has been made to deny the claim in whole or in part. Until that time in which the claim is reviewed it shall be held in confidence.

5. If a claim of confidentiality is denied in the preliminary review, the owner or operator will have fifteen (15) days from the date of the denial letter to submit further justification or comments to the director for consideration in the final decision on confidentiality. The director shall inform the owner or operator of his/her final decision on whether the claim will be denied in whole or in part within ten (10) working days of receiving the owner or operator's further justification or comments.

6. The owner or operator may appeal the director's final decision to deny a claim of confidentiality, in whole or in part, to the administrative hearing commission pursuant to 621.250, RSMo, and 10 CSR 10-1.030.

Upon the timely filing of a notice of appeal, the confidentiality of the information shall be preserved until the entry of a final order by the commission.

7. If the commission's final decision is to deny the claim of confidentiality, in whole or in part, the director shall treat the information as subject to public disclosure unless the owner or operator files a timely action for judicial review pursuant to 536.110, RSMo. If a timely action for judicial review is filed, the confidentiality of the information shall be preserved until adjudication of the matter upon judicial review.

8. A claim of confidentiality under this rule shall be approved if—

A. The owner or operator has asserted a business confidentiality claim that has not expired by its terms or been withdrawn;

B. The owner or operator has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to take those measures;

C. The information is not, and has not been, reasonably obtained without the owner's or operator's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special needs in a judicial or quasi-judicial proceeding);

D. No statute specifically requires public disclosure of the information;

E. The information is not emission data that is required to be reported to the U.S. Environmental Protection Agency under 40 CFR 51.15 with the exception of the following data elements which can be claimed to be confidential with justification the department approves:

(I) Activity/throughput (for each period reported);

(II) Emission factor;

(III) Winter throughput (percent);

(IV) Spring throughput (percent);

(V) Summer throughput (percent);

(VI) Fall throughput (percent);

(VII) Design capacity (including boiler capacity, if applicable) (MHDR);

(VIII) Primary capture and control efficiencies (percent); and

(IX) Total capture and control efficiency (percent); and

F. The owner or operator has satisfactorily shown that—

(I) Public disclosure of the information is likely to cause substantial harm to the business' competitive position; or

(II) The information was voluntarily submitted and if disclosed, the submitter would be reluctant to provide additional information to the director in the future.

Information is voluntarily submitted if the facility has no statutory, regulatory, or contractual obligation to provide the information; or the director has no statutory, regulatory, or contractual authority to obtain the information under federal or state law; and

(B) Conditions for Any Disclosure.

1. Public request. Upon receipt of a request from a member of the public for release of any information submitted under a claim of confidentiality, and for which the claim has not been finally denied, the director shall inform both the person making the request and the owner or operator that the request for the information is denied or that a tentative decision has been made to release the information. A preliminary decision to release the information shall be treated in the same manner as a preliminary decision to deny a claim of confidentiality under paragraphs (3)(A)4.-8. of this rule.

2. Confidential and public information. If information entitled to confidentiality cannot reasonably be separated from information not entitled to confidentiality, all the information must be treated as subject to public disclosure.

3. Public release. The director and his/her designees shall not release to the public, or place in the public file, any information for which a claim of confidentiality has been made until the procedures under paragraphs (3)(A)4.-8. and (3)(B)1. of this rule have been observed.

4. Disclosure to local agencies. Information submitted under a claim of confidentiality, where the claim has not been finally denied, may be disclosed to local air pollution control agencies if—

A. The owner or operator is given prior notice fifteen (15) working days in which to obtain an order from a court of competent jurisdiction restraining or enjoining the disclosure to the local agency, and if no such order is obtained, or obtained and later dissolved; or

B. The local agency has ordinances or regulations respecting the treatment of confidential business information that is equivalent to this rule, the director provides notice to the owner or operator that the information is being disclosed to the local agency, and the director informs the local agency that the information is subject to a claim of confidentiality.

5. Disclosure to administrator. Information submitted under a claim of confidentiality, where the claim has not been finally denied, may be disclosed to the administrator provided the administrator agrees, pursuant to 40 CFR 2.215, that the information will be kept confidential.

6. Subpoenas for confidential information. The director shall respond to subpoenas and discovery requests for information submitted under a claim of confidentiality, if the claim has not been finally denied, in a manner that is designed to preserve the claim of confidentiality until a confidentiality determination is made by a court or other tribunal of competent jurisdiction.

(4) Reporting and Record Keeping. (*Not Applicable*)

(5) Test Methods. (*Not Applicable*)

AUTHORITY: section 643.050, RSMo Supp. 2013. Original rule filed Sept. 2, 1993, effective May 9, 1994. Amended: Filed May 2, 2016, effective Dec. 30, 2016.*

**Original authority: 643.050, RSMo 1965, amended 1972, 1992, 1993, 1995, 2011.*

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants

PURPOSE: This rule specifies the maximum allowable opacity of visible air contaminant emissions, unless specifically exempt or regulated by 10 CSR 10-6.070 and requires the use of continuous monitoring systems (CMS) on certain air contaminant emission units.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Applicability. This rule applies to all sources of visible emissions, excluding water vapor, throughout the state of Missouri with the exception of the following:

(A) Internal combustion engines;

(B) Wood burning stoves or fireplaces used for heating;

(C) Fires used for recreational or ceremonial purposes or fires used for the noncommercial preparation of food by barbecuing;

(D) Fires used solely for the purpose of fire-fighter training;

(E) Smoke generating devices when a required permit (under 10 CSR 10-6.060 or 10 CSR 10-6.065) has been issued or a writ-

ten determination that a permit is not required has been obtained;

(F) The pyrolysis of wood for the production of charcoal in batch-type charcoal kilns (Emissions from batch-type charcoal kilns shall comply with the requirements of 10 CSR 10-6.330 Restriction of Emissions From Batch-Type Charcoal Kilns);

(G) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher;

(H) Emission units regulated by 10 CSR 10-6.070 and the provisions of 40 CFR 60, promulgated as of July 1, 2013, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;

(I) Any open burning that is exempt from open burning rule 10 CSR 10-6.045;

(J) Emission units regulated by 40 CFR 63 subpart DDDDD—*National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters* that meet one (1) of the following criteria:

1. Constructed or reconstructed after June 4, 2010;

2. The unit is subject to a ten percent (10%) opacity limit as described in Table 4 of 40 CFR 63 subpart DDDDD; or

3. The unit is in Table 2 of 40 CFR 63 subpart DDDDD and has a filterable particulate matter limitation of less than or equal to 4E-02 pounds per million British thermal units (lbs/MMBtu);

(K) Fugitive emissions subject to 10 CSR 10-6.170;

(L) Any emission unit burning only natural gas, landfill gas, propane, liquefied petroleum gas, digester gas, or refinery gas;

(M) Emission units regulated by 40 CFR 63 subpart JJJJJ—*National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources* that meet all of the following criteria:

1. Constructed or reconstructed after June 4, 2010;

2. In compliance with the 3.0E-02 lbs/MMBtu filterable particulate matter emission limit described in Table 1 of 40 CFR 63 subpart JJJJJ or maintaining opacity to less than or equal to ten percent (10%) as described in Table 3 of 40 CFR 63 subpart JJJJJ; and

3. Demonstrating compliance with a continuous monitoring system (CMS), including a continuous emission monitoring system (CEMS), a continuous opacity monitoring system (COMS), or a continuous parameter



monitoring system (CPMS);

(N) Emission units regulated by 40 CFR 63 subpart UUUU—*Mercury and Air Toxics Standards*, and demonstrating compliance with a particulate matter continuous emission monitoring system; and

(O) Emission units that are contained within and emit only within a building space. This does not include emission units with a collection device vented outside the building space.

(2) Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Visible Emissions Limitations.

1. Maximum Visible Emissions Limitations. Unless specified otherwise in this rule, no owner or operator shall cause or permit to be discharged into the atmosphere from any emission unit, not exempted under this rule, any visible emissions greater than the limitations in the following table for any continuous six (6)-minute period as measured by the test method used to demonstrate compliance with this rule:

Area of State	Visible Emission Limitations	
	Existing Emission Units	New Emission Units
Kansas City Metropolitan Area	20%	20%
St. Louis Metropolitan Area	20%*	20%
Springfield-Greene County Area	40%	20%
Outstate Area	40%	20%

*Exception: Existing emission units in the St. Louis metropolitan area that are not incinerators and emit less than twenty-five (25) lbs/hr of particulate matter shall be limited to forty percent (40%) opacity.

2. Visible Emissions Limitations, Exceptions Allowed In One (1) Continuous Six (6)-Minute Period. The visible emissions limitations in the following table shall be allowed for one (1) continuous six (6)-minute period in any sixty (60) minutes as measured by the test method used to demonstrate compliance with this rule:

Area of State	Visible Emission Limitations, Exceptions	
	Existing Emission Units	New Emission Units
Kansas City Metropolitan Area	60%**	60%**
St. Louis Metropolitan Area	40%	40%
Springfield-Greene County Area	60%**	60%**
Outstate Area	60%	60%

**This exception does not apply to existing and new incinerators in the Kansas City metropolitan area and Springfield-Greene County.

(B) Failure to meet the requirements of

subsection (3)(A) solely because of the presence of uncombined water shall not be a violation of this rule.

(C) Compliance Determination. Compliance for any emission unit to which this rule applies shall be determined from opacity measurements taken in accordance with subsection (3)(D) or (3)(E) of this rule. If opacity measurements taken by a non-department qualified observer differ from visual measurements taken by a qualified department observer, the qualified department observer's opacity measurements shall be used to determine compliance.

(D) The following emission units shall install a CMS in accordance with subsection (3)(F) of this rule:

1. Unless exempt under section (1) of this rule, coal-fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal-fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement; and

2. Portland cement calcining kiln operations.

(E) Unless otherwise specified in this rule, owners or operators shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.

(F) Continuous Monitoring Requirements. Sources with emission units that are required to install a CMS must select one (1) of the following options:

1. Install, calibrate, and maintain a COMS according to the following conditions:

A. Source operating time includes any time fuel is being combusted and/or a fan is being operated;

B. Cycling time. Cycling times include the total time a monitoring system requires to sample, analyze, and record an emission measurement. Continuous monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive ten (10)-second period;

C. Certification. All COMS shall be certified by the director after review and acceptance of a demonstration of conformance with 40 CFR 60, Appendix B, Performance Specification 1;

D. Audit authority. All COMS shall be subject to audits conducted by the department, and all COMS records shall be made available upon request to department personnel; or

2. Install, calibrate, and maintain an alternative CMS according to the following conditions:

A. All alternative CMS, monitoring

systems requirements, system locations, reporting and record keeping requirements, and procedures for operation and maintenance must be approved by the staff director and the U.S. Environmental Protection Agency (EPA); and incorporated into this rule and the state implementation plan (SIP) prior to implementation;

B. Demonstrate that a requirement of paragraph (3)(F)1. or section (4) of this rule cannot be practically met; and

C. Demonstrate that the alternative CMS produces results that adequately verify compliance.

(G) If a CMS is malfunctioning, a non-department qualified observer measurement may be used as a temporary substitute.

(H) Time Schedule for Compliance.

1. All new emission units shall comply when operations begin; and

2. All existing emission units shall comply as of the effective date of this rule.

(4) Reporting and Record Keeping.

(A) COMS Reporting. Owners or operators required to install COMS shall submit a quarterly written report to the director. All quarterly reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter and shall include the following emissions data:

1. A summary including total time for each cause of excess emissions and/or monitoring downtime;

2. Nature and cause of excess emissions, if known;

3. The six (6)-minute average opacity values greater than the opacity emission requirements (The average of the values shall be obtained by using the procedures specified in the Reference Method used to determine the opacity of the visible emissions);

4. The date and time identifying each period during which the COMS was inoperative (except for zero and span checks), including the nature and frequency of system repairs or adjustments that were made during these times; and

5. If no excess emissions have occurred during the reporting period and the COMS has not been inoperative, repaired, or adjusted, this information shall be stated in the report.

(B) COMS Records to be Maintained. Owners or operators of affected emission units shall maintain a file (hard copy or electronic version) of the following information for a minimum of two (2) years from the date the data was collected:

1. All information reported in the quarterly summaries; and

2. All six (6)-minute opacity averages

and daily Quality Assurance (QA)/Quality Control (QC) records.

(5) Test Methods.

(A) Qualified observer in accordance with 10 CSR 10-6.030(9)(A), Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources.

(B) Photogrammetric opacity measurement in accordance with EPA Method ALT-082—Digital camera opacity technique.

(C) A modification of the test methods listed in subsections (5)(A) or (5)(B) of this rule. Any modification of a test method listed in subsections (5)(A) or (5)(B) of this rule must be approved by the director and the EPA; and incorporated into this rule and the SIP prior to implementation.

AUTHORITY: section 643.050, RSMo Supp. 2013. Original rule filed March 31, 1999, effective Nov. 30, 1999. Amended: Filed Feb. 28, 2002, effective Nov. 30, 2002. Amended: Filed Feb. 4, 2008, effective Sept. 30, 2008. Amended: Filed March 29, 2016, effective Dec. 30, 2016.*

**Original authority: 643.050, RSMo 1965, amended 1972, 1992, 1993, 1995, 2011.*

10 CSR 10-6.230 Administrative Penalties

PURPOSE: This rule establishes the procedures for assessment of administrative penalties.

(1) **Applicability.** This rule applies to installations and individuals throughout Missouri that are subject to sections 643.010–643.250, RSMo or any rule of the Missouri Air Conservation Commission or any site that is permitted by the Missouri Air Pollution Control Program.

(2) **Definitions.**

(A) Definitions for key words used in this rule may be found in 10 CSR 10-6.020(2).

(B) Additional definitions specific to this rule are as follows:

1. **Conference, conciliation and persuasion**—A process of verbal or written communications, including but not limited to meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

2. **Economic benefit**—Any monetary gain which accrues to a violator as a result of noncompliance;

3. **Gravity-based assessment**—The degree of seriousness of a violation taking into consideration the risk to human health and the environment posed by the violation and considering the extent of deviation from sections 643.010–643.250, RSMo;

4. **Minor violation**—A violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

5. **Multi day violation**—A violation which has occurred on or continued for two (2) or more consecutive or nonconsecutive days; and

6. **Multiple violation penalty**—The sum of individual administrative penalties assessed when two (2) or more violations are included in the same complaint or enforcement action.

(3) **General Provisions.**

(A) Pursuant to section 643.085, RSMo, and in addition to any other remedy provided by law, upon determination by the department that a provision of sections 643.010–643.250, RSMo, or a standard, limitation, order or rule promulgated, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator. The amount of the administrative penalty will be determined according to section (6) of this rule. In no event may the total penalty assessed per day of violation exceed the statutory maximum specified in section 643.151, RSMo.

(B) An administrative penalty shall not be imposed until the department has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or had the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is not a minor violation.

(C) An order assessing an administrative penalty shall be served upon the operator, owner or appropriate representative through United States Postal Service certified mail, return receipt requested, a private courier or messenger service which provides verification of delivery or by hand delivery to the operator's or owner's residence or place of

business. An order assessing an administrative penalty shall be considered served if verified receipt is made by the operator, owner or appropriate representative. A refusal to accept, or a rejection of certified mail, private courier or messenger service delivery or by hand delivery of an order assessing an administrative penalty constitutes service of the order.

(D) The director may at any time withdraw without prejudice any administrative penalty order.

(E) An order assessing an administrative penalty shall describe the nature of the violation(s), the amount of the administrative penalty being assessed and the basis of the penalty calculation.

(4) **Reporting and Record Keeping.** (Not Applicable)

(5) **Test Methods.** (Not Applicable)

(6) **Determination of Penalties.** The amount of an administrative penalty will involve the application of a gravity-based assessment under subsection (6)(A) and may involve additional factors for multiple violations, (6)(B), multi day violations, (6)(C) and economic benefit resulting from noncompliance, (6)(D). The resulting administrative penalty may be further adjusted as specified under (6)(E).

(A) **Gravity Based Assessment.** The gravity-based assessment is determined by evaluating the potential for harm posed by the violation and the extent to which the violation deviates from the requirements of the Missouri Air Conservation Law.

1. **Potential for harm.** The potential for harm posed by a violation is based on the risk to human health, safety or the environment or to the purposes of implementing the Missouri Air Conservation Law and associated rules or permits.

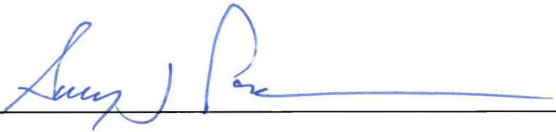
A. The risk of exposure is dependent on both the likelihood that humans or the environment may be exposed to contaminants and the degree of potential exposure. Penalties will reflect the probability the violation either did result in or could have resulted in a release of contaminants in the environment, and the harm which either did occur or would have occurred if the release had in fact occurred.

B. Violations which may or may not pose a potential threat to human health or the environment, but which have an adverse effect upon the purposes of or procedures for implementing the Missouri Air Conservation

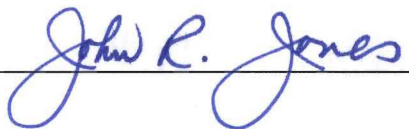
Order of Rulemaking

The Missouri Air Conservation Commission **ADOPTS** the following action on this 25th day of August, 2016:

10 CSR 10-6.210 (amendment) *Confidential Information*

_____, Chairman

_____, Vice Chairman

_____, Member

_____, Member

_____, Member

_____, Member

_____, Member

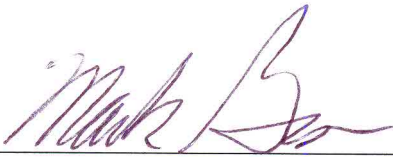
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Order of Rulemaking

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10 CSR 10-6.210 (amendment) *Confidential Information*

_____, Chairman

_____, Vice Chairman

Jack C Baber _____, Member

_____, Member

_____, Member

_____, Member

_____, Member

Order of Rulemaking

The Missouri Air Conservation Commission **ADOPTS** the following action on this 25th day of August, 2016:

10 CSR 10-6.220 (amendment) *Restriction of Emission of Visible Air Contaminants*

Sam J. R., Chairman

David C. Zimmerman, Vice Chairman

John R. Jones, Member

_____, Member

_____, Member

_____, Member

_____, Member

Order of Rulemaking

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10 CSR 10-6.220 (amendment) *Restriction of Emission of Visible Air Contaminants*

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Order of Rulemaking

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10 CSR 10-6.220 (amendment) *Restriction of Emission of Visible Air Contaminants*

_____, Chairman

_____, Vice Chairman

Jack C Baker _____, Member

_____, Member

_____, Member

_____, Member

_____, Member

Clean Air Act 110(l) Demonstration to Support Amendment to 10 CSR 10-6.220, Restriction of Emission of Visible Air Contaminants

Opacity is the original and most easily detected form of air pollution. It is a measure of the degree to which stack emissions reduce the transmission of light or obscure the view of an object in the background, and is used as an indicator of the effectiveness of controls for particulate matter (PM) emissions. In general, the higher the concentration of particulate passing through an emissions point, the more light will be blocked, thus increasing the opacity percentage. Over the course of a century, monitoring opacity has evolved from comparing effluent smoke to cards with black lines of different thicknesses drawn on them (Ringelmann scale) to utilizing state-of-the-art lasers and light-sensing technology. Advancements in monitoring technology and our understanding of chemistry have allowed us to break down atmospheric emissions to the molecular level, differentiate those molecules by species, and determine emission rates and concentrations.

The technological advancements are not only evident in our monitoring capabilities, but in our emission units themselves. Much of the fuel burning equipment in use today is highly efficient. In addition, we have air pollution control equipment with collection efficiencies as high as 99%. Lastly, we have access to cleaner burning fuels such as natural gas. All of these factors combined have resulted in a dramatic decrease in air pollution since the industrial revolution when you could not see more than half a city block on some days due to poor combustion efficiency.

Over time, some of Missouri's regulations become obsolete in certain applications. Missouri's opacity rules originated in 1967, and since their consolidation in 1999 into 10 CSR 10-6.220 *Restriction of Emission of Visible Air Contaminants*, continue to maintain the same standards and requirements. Whether it is due to a limit superseded by newer federal standards, more advanced equipment with greater efficiency, or the use of cleaner burning fuels, the monitoring and recordkeeping requirements in outdated rules can be an unnecessary burden on Missouri companies. This rulemaking will update the opacity rule in order to reduce the regulatory burden on these sources while still being protective of air quality. Because 10 CSR 10-6.220 is included in Missouri's State Implementation Plan (SIP), Clean Air Act Section 110(l) is applicable when making changes to this rule even though there are no National Ambient Air Quality Standards (NAAQS) for opacity. This demonstration presents the amendments being made to 10 CSR 10-6.220 *Restriction of Emission of Visible Air Contaminants* and supporting information affirming that these amendments satisfy the state of Missouri's obligation under the Clean Air Act section 110(l) to ensure these changes do not "interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of [the] Act."

Issue: Under the federal regulation 40 CFR 60 subpart UUUUU, known as Mercury and Air Toxics Standards or MATS, power plants are no longer required to measure opacity using Continuous Opacity Monitoring Systems (COMS) when they have installed Particulate Matter Continuous Emissions Monitoring Systems (PM CEMS). However, 10 CSR 10-6.220 *Restriction of Emission of Visible Air Contaminants* does require them to have COMS installed, and power plants have made a request to remove this requirement as it has been removed from federal regulations.

Other regulations including 40 CFR 63 subparts DDDDD and JJJJJ, commonly known as the boiler MACT (Maximum Achievable Control Technology) have particulate matter limits similar to those in the MATS rule that result in minimal opacity emissions. In 40 CFR 63 subparts DDDDD and JJJJJ, for certain emission units, there are also opacity limits (10%) that are stricter than those of 10 CSR 10-6.220 (20%). Exemptions for certain emission units subject to these regulations will be established to eliminate these overlaps.

Industry also suggested that natural gas, propane, liquefied petroleum, landfill gas, digester gas and refinery gas fired units should be exempt from opacity monitoring requirements since these units have minimal opacity emissions and never exceed the opacity limit.

Finally, to clarify and more accurately portray the manner in which 10 CSR 10-6.220 is enforced, the internal combustion (IC) engine exemption is being revised to include all IC engines.

This demonstration provides supporting information to show that these amendments would not have a negative impact on air quality.

Background and Supporting Information-40 CFR 63 subpart UUUUU Exemption: MATS requirements call for quarterly stack tests or the installation of PM CEMS for compliance demonstration. Many power plants are electing to install PM CEMS. There are five different types of PM CEMS; each measures a different parameter that correlates with particulate concentration or measures particulate mass directly.

- Light Extinction: measures opacity and gives particulate concentration based on a site specific correlation.
- Light Scatter: found in-stack or in extractive PM monitoring devices, works by measuring the amount of light that is scattered in a certain direction by the flue gas which is correlated with particulate concentration.
- Probe Electrification: measures the mass of particulate traveling through a duct or stack based on the amount of static electricity transferred from each particle that bumps into the probe. When flow rate is also measured, dividing mass by flow rate gives particulate concentration.
- Optical Scintillation: measures the change in amplitude of a light wave as it crosses a stack. This can be correlated with particulate concentration.
- Beta Ray Attenuation: is an always extractive method that collects samples in batches. This method measures the amount of beta rays absorbed by a sample extracted from the stack and collected on filter tape. The more beta rays absorbed by the sample the higher the PM mass concentration.

When deciding which of these PM CEMS models to install, stack conditions are the major factor. Plants with dry stacks can use any version of PM CEMS. Those with wet stacks, on the other hand, are limited to models that extract samples from the stack before measuring PM concentration. PM CEMS utilizing beta attenuation are a common form, but there are some extractive models that use vaporizing

chambers and light scatter to measure particulate matter. This prevents water droplets from being measured as particulate matter.

The issue that power plants in Missouri are facing is the requirement to have both PM CEMS and COMS installed. For plants that have dry stacks, it would be possible for them to monitor opacity and PM concentration simultaneously using a light extinction PM CEMS, because opacity is the parameter that this type of PM CEMS measures to give a particulate concentration. For facilities with wet stacks, a correlation between PM emission rates and opacity in the stack cannot be measured due to moisture. Facilities with wet scrubbers have been able to demonstrate compliance with the opacity limit by monitoring opacity up stream of the scrubbers. Actual emissions would be measured after the wet scrubber and would be even lower after this additional particulate matter control device.

MATS limits on particulate matter emissions are so strict, any power plant in compliance with MATS will also meet the opacity limits in 10 CSR 10-6.220. This conclusion is drawn by extrapolating from correlation data gathered from power plant Compliance Assurance Monitoring (CAM) plans. The least restrictive PM emission limit in the MATS regulation is 0.04 pounds of filterable PM (PM-FIL) per mmBtu, and the most restrictive opacity limit in 6.220 is 20%. Figures (1) through (4) show the correlation of PM-FIL emission rates and opacity measurements collected during the calibration of COMS used in the CAM plans of typical Missouri power plants. According to a linear regression, there is a strong correlation, greater than 94%, between opacity and particulate concentration for individual emission units. Using the equations of each trendline, opacity, when in compliance with MATS, can be predicted by solving each function when $x=0.04$ (least stringent MATS lb PM-FIL/mmBtu limit). In all cases, predicted opacity, when in compliance with MATS, is below the 10 CSR 10-6.220 opacity limit of 20%.

There is a difference in reporting requirements between MATS and 10 CSR 10-6.220. MATS emissions are recorded as an hourly average over a 30-day period and allows for averaging across multiple units within a facility. 10 CSR 10-6.220 calls for emissions to be recorded in 6-minute averages and allows for one 6-minute exceedance every 60-minutes during which the limit is increased to 40% opacity in the St. Louis metropolitan area and 60% opacity for the rest of the state. Regardless of the difference in averaging, the MATS requirement would still keep opacity below the 20% threshold. These facilities typically operate around 10% opacity. Furthermore, according to Figure (2), the unit closest to 20% opacity when in compliance with MATS would have to exceed the MATS limit by over 6% (0.0025 lb PM-FIL/mmBtu) to reach 20% opacity. If this did occur, the facility would require an offset from another unit to average within the limit, and would still result in an overall reduction in emissions and opacity percentages within the 20% limit from the offsetting unit (18.72% if an identical unit to that in Figure (2) were used to offset).

The correlations used to justify these exemptions were collected from the data provided in the CAM plans of 10 emission units located at 4 different power plants. The Department of Natural Resources' Air Pollution Control Program is confident that these units can be used to represent all Missouri power plants due to the variation in boiler design rating, firing method, and fuel. These characteristics, along with the number of data points and high goodness of fit (r^2) illustrated in each Figure, offer strong evidence to support the exemptions described in this demonstration.

The emission units represented in Figures (1)-(4) range in design rating from 220 mmBtu/hr to 6,183 mmBtu/hr. The six boilers represented by the data in Figures (1) and (2) are tangentially-fired, the boiler represented by the data in Figure (3) is wall-fired, and the two boilers represented by the data in Figure (4) are cyclone-fired. The fuel burned in these boilers include: pulverized coal, western subbituminous coal, low-sulfur subbituminous coal, Illinois basin bituminous coal, petroleum coke, and fuel oil number 2.

Based on this evidence the Department of Natural Resources' Air Pollution Control Program is amending 10 CSR 10-6.220 to exempt any facility regulated by MATS and monitoring with a PM CEMS. This exemption will be listed in subsection (1)(N) of 10 CSR 10-6.220.

Background and Supporting Information-40 CFR 63 subpart DDDDD Exemption:

Industry suggested adding an exemption for emission units regulated by 40 CFR 63 subpart DDDDD, *National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters*. After reviewing the various requirements of this regulation, the Department of Natural Resources' Air Pollution Control Program found that it would be appropriate to exempt emission units that meet one of the following criteria:

1. Constructed or reconstructed after June 4, 2010;
2. The unit is subject to a 10 percent opacity limit as described in Table 4 of 40 CFR 63 subpart DDDDD; or
3. The unit is in Table 2 of 40 CFR 63 subpart DDDDD and has a filterable particulate matter limitation of less than or equal to 4E-02 pounds per million British thermal units (lbs/MMBtu).

This determination is based on PM limits that would keep emissions below the 20% opacity and stricter opacity requirements. For new or reconstructed emission units (emission units constructed or reconstructed after June 4, 2010), the least restrictive PM emission limit is 0.03 lb PM-FIL/mmBtu. Some existing emission units (emission units constructed or reconstructed on or before June 4, 2010) have PM-FIL emission limits that are too high to allow them to be exempt from 10 CSR 10-6.220. Therefore, only those existing emission units that are subject to at least a 0.04 lb PM-FIL/mmBtu emission limit will be exempt on the basis of PM limitations. However, any emission unit regulated under 40 CFR 63 subpart DDDDD that is subject to a 10% opacity limit will be exempt, because this is a stricter opacity requirement than any specified in 10 CSR 10-6.220.

As described above, Figures (1) through (4) show the correlation of PM-FIL concentration and opacity measurements for various boilers, and can be used to estimate opacity at certain PM emission rates. For the emission units meeting the criteria for this exemption on the basis of PM limitations, the least restrictive PM emission limit is 0.04 lb PM-FIL/mmBtu. Using the equations of each trendline in Figures (1) through (4), the predicted opacity at that PM-FIL emission rate is below the 10 CSR 10-6.220 opacity limit of 20%.

This exemption will be listed in subsection (1)(J) of 10 CSR 10-6.220.

Background and Supporting Information-40 CFR 63 subpart JJJJJ Exemption:

Industry suggested adding an exemption for new emission units regulated by 40 CFR 63 subpart JJJJJ, *National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources*. After reviewing the various requirements of this regulation, the Department of Natural Resources' Air Pollution Control Program found that it would be appropriate to exempt emission units that meet all of the following criteria:

1. The emission unit was constructed or reconstructed after June 4, 2010;
2. The emission unit is in compliance with the 0.03 pounds per million British thermal units filterable particulate matter emission limit described in Table 1 of 40 CFR 63 Subpart JJJJJ or maintaining opacity to less than or equal to 10 percent as described in Table 3 of 40 CFR 63 Subpart JJJJJ; and
3. Demonstrating compliance with a continuous monitoring system (CMS), including a continuous emission monitoring system (CEMS), a continuous opacity monitoring system (COMS), or a continuous parameter monitoring system (CPMS).

As described above, Figures (1) through (4) show the correlation of PM-FIL concentration and opacity measurements for various boilers, and can be used to estimate opacity at certain PM-FIL emission rates. For the emission units meeting the criteria for this exemption on the basis of PM limitations, the least restrictive PM emission limit is 0.03 lb PM-FIL/mmBtu. Using the equations of each trendline in Figures (1) through (4), the predicted opacity at that PM-FIL emission rate is below the 10 CSR 10-6.220 opacity limit of 20%. This exemption will be listed in subsection (1)(M) of 10 CSR 10-6.220.

Background and Supporting Information-Natural Gas, Liquefied Petroleum Gas, Landfill Gas, Digester Gas and Refinery Gas Fired Unit Exemption: Although most combustion sources are well known sources of particulate matter and visible emissions, the combustion of gaseous organic compounds is notoriously low in this air pollutant category. The Department of Natural Resources' Air Pollution Control Program is confident that emission units burning gaseous fuels can be exempted from 10 CSR 10-6.220 based on the following information:

A. Natural Gas-

By using AP-42 emission factors for PM-FIL emissions from natural gas units (Tables 3.1-2a, 1.4-2) and the heat content of the natural gas burned in two different natural gas fired units (reported on MoEIS) a theoretical emission rate can be calculated (Table (1)). When these rates are compared to the PM-FIL emissions of coal fired units (Table (2)), it is clear that natural gas is a much cleaner burning fuel.

By using the calculated PM emission rate of natural gas and the opacity correlation of the coal fired boilers in Figures (1)–(4), an estimated opacity reading can be gathered (Table (3)). Coal has a much higher ash content (thus a higher emission rate of PM-FIL per mmBtu) so it can be assumed that the actual correlation for a natural gas fired unit would have an even lower opacity reading at the PM emission rate being used to compare. Nonetheless, with a calculated average uncontrolled opacity of 4.3% it is unnecessary to monitor the opacity of natural gas fired units when the limit is 20% as in 10 CSR 10-6.220.



B. Liquefied Petroleum Gas (LPG)-

LPG is primarily composed of either propane or butane. These gaseous fuels have very low PM emissions, and thus low opacity emissions. The emission factors for total PM emissions can be found in AP-42 section 1.5 Table 1.5-1. By using the heat content of each of these fuels to convert their respective emission factors into lb/mmBtu, we can estimate the opacity emissions from combusting each species by referring to the PM /opacity correlations from Figures (1)-(4) below. The correlation that violates the 20% opacity limit at the lowest PM emission rate is found in Figure (2), and will be used to estimate opacity based on the theoretical PM emission rates of propane and butane.

1. Butane- Butane has a PM-FIL emission factor of 0.2 lb/10³gal. Using the recommended heat content, listed in the same AP-42 document, of 102 X 10⁶ Btu/10³ gallon, we can determine that butane combustion results in a PM-FIL emission rate of 0.00196 lb/mmBtu. According to the correlation in Figure(2), this PM emission rate would have an opacity of 9.71%; well within the 20% limit. Based on this information, it is unnecessary to subject butane fired emission units to 10 CSR 10-6.220.
2. Propane- Propane has a PM-FIL emission factor of 0.2 lb/10³gal. Using the recommended heat content, listed in the same AP-42 document, of 91.5 X 10⁶ Btu/10³ gallon, we can determine that propane combustion results in a PM-FIL emission rate of 0.00219 lb/mmBtu. According to the correlation in Figure(2), this PM emission rate would have an opacity of 9.77%; well within the 20% limit. Based on this information, it is also unnecessary to subject propane fired emission units to 10 CSR 10-6.220.

C. Landfill Gas-

Emission units combusting landfill gas includes boilers, turbines, internal combustion engines (ICEs), and flares. Of these types of units, the combustion of landfill gas in gas turbines has the highest emission rate of particulate matter. According to *Background Information Document for Updating AP42 Section 2.4 for Estimating Emissions from Municipal Solid Waste Landfills* (2008), the PM-FIL emission factors for landfill gas combustion in flares, ICEs, and boilers have been updated to 238 kg/10⁶ dscm CH₄, 232 kg/10⁶ dscm CH₄, and 41 kg/10⁶ dscm CH₄ respectively. The PM-FIL emission factor for landfill gas combustion in gas turbines remains unchanged at 350 kg/10⁶ dscm CH₄ in table 2.4-4 of AP-42. By converting kilograms to pounds, cubic meters to cubic feet, and dividing by the heat content of CH₄ (1,012 Btu/dscf CH₄), an emission rate of 0.02159 lb PM-FIL/mmBtu is derived. This emission rate can be compared to the PM-FIL/opacity correlations in Figures (1)-(4) below. Again, since the correlation in Figure (2) violates the opacity limit of 20% at the lowest PM emission rate, it will be used for comparison. This correlation gives an opacity value of 14.69%; well within the 20% limit. Based on this information it is unnecessary to subject landfill gas fired units to 10 CSR 10-6.220.

D. Refinery Gas-

Refinery gas is a byproduct of the refining process of crude oil. It is a gaseous mixture of various alkanes and alkenes, and is commonly compared to natural gas in regard to the products of its combustion. EPA's response to comments made on the boiler MACT describes the PM emissions from units burning natural gas and refinery gas as near the detection limit and very close to zero.¹ With PM emissions near zero, opacity emissions from these units would be negligible. For this reason, it is also appropriate to exempt any unit burning only refinery gas from 10 CSR 10-6.220.

E. Digester Gas-

Digester gas is another type of biogas that is comparable to landfill gas, but with higher methane content. The uncontrolled PM-10 emission factor for digester gas burned in stationary gas turbines found in Chapter 3 (Table 3.1-2b.) of AP-42 is 1.2 E-02 lb PM-10/mmBtu. Using this emission factor, we can estimate opacity emissions from emission units burning digester gas. By comparing the emission rate of 1.2 E-02 lb/mmBtu to the opacity and particulate matter correlations found in the demonstration for the proposed amendments, we get an estimated opacity of 3.866%. Although the digester gas emission factor for particulate matter is for PM-10 and not PM-FIL, particulate matter emissions from the combustion of gaseous fuels are generally considered to be composed of compounds less than 10 micrometers in aerodynamic diameter. This evidence suggests that it is not possible for emission units burning digester gas to exceed the opacity limits in 10 CSR 10-6.220; therefore it is appropriate to exempt them from the rule.

The exemption for emission units burning gaseous fuels will be listed in subsection (1)(L) of 10 CSR 10-6.220.

Background for complete IC engine exemption: Currently, the exemption for internal combustion engines in 10 CSR 10-6.220 includes all stationary IC engines in the state and mobile IC engines outside of the Kansas City and St. Louis Metropolitan Areas. However, in practice, the Department of Natural Resources' Air Pollution Control Program does not require a permit to operate mobile IC engines in the St. Louis or Kansas City Metropolitan areas nor does the department enforce the limits of 10 CSR 10-6.220 on IC engines in these areas. The original regulations for opacity limits on mobile sources in these areas date back to 1967 and 1968 when control technology for automobiles and regulations on fuel were first being developed and installed on new automobiles.

Today there are many federal fuel and mobile IC engine emission standards that have resulted in significant reductions in particulate matter and other air pollutants(e.g., federal Tier 2 rule for light-duty vehicles and trucks, heavy-duty highway engine standards, and a variety of rules addressing offroad vehicles including exhaust emission standards for locomotives). The EPA has established progressively more stringent emission standards for carbon monoxide, hydrocarbons, nitrogen oxides, and particulate

matter, starting in the mid-1970s for on-road vehicles and in the early 1990s for nonroad engines and equipment. Emissions standards set limits on the amount of pollution a vehicle or engine can emit.

Emission reductions have occurred as mobile source fleets, across the state of Missouri (including the Kansas City and St. Louis Metropolitan areas), have turned over to newer, cleaner engines.

At the state level we have vehicle emissions inspections in the St. Louis Metropolitan Area to ensure light-duty vehicle emissions control equipment is functioning properly (10 CSR 10-5.381 On-Board Diagnostics Motor Vehicle Emission Inspection), and regulations limiting heavy duty diesel vehicle idling in both Kansas City and St. Louis Metropolitan Areas (10 CSR 10-2.385 and 5.385 Control of Heavy Duty Diesel Vehicle Idling Emissions). There have not been any opacity complaints or issues regarding mobile IC engines raised in the St. Louis or Kansas City Metropolitan Areas in recent history. In order to more accurately portray the applicability of this regulation, the IC engine exemption will include all IC engines.

The modified exemption for internal combustion engines will be listed in subsection (1)(L) of 10 CSR 10-6.220.

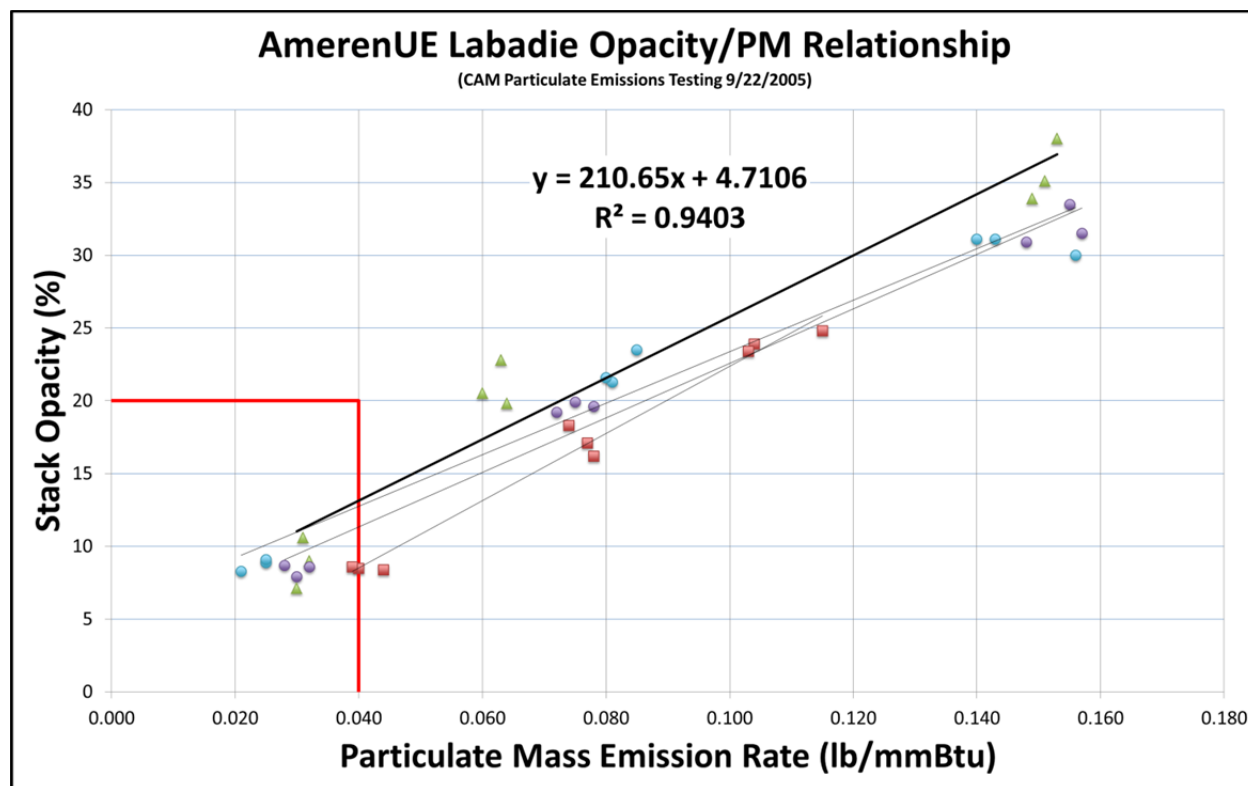
Conclusion: This demonstration satisfies Clean Air Act section 110(l) by providing supporting information to show that these amendments to 10 CSR 10-6.220, *Restriction of Emission of Visible Air Contaminants* will not have a negative impact on air quality. Rule 10 CSR 10-6.220 is not directly relied upon in any Missouri plans demonstrating attainment or maintenance of any National Ambient Air Quality Standard. Exempting power plants regulated by 40 CFR 60 subpart UUUUU that install PM CEMS, certain emission units regulated by 40 CFR 63 subpart DDDDD and 40 CFR 63 subpart JJJJJ, and gaseous fuel fired units, including those that combust only natural gas, LPG, landfill gas, and refinery gas, will not harm air quality. In addition, amending the exemption for internal combustion engines to include mobile IC engines in the St. Louis and Kansas City Metropolitan Areas will simply clarify the manner in which this rule is being enforced.

¹"National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters (Final Rule)." Federal Register 76:54 (March 21, 2011) p. 15637. Available from: www.gpo.gov; Accessed: 2/7/2014

Visuals:

Figure (1)

UNIT 1 ALL TESTS		UNIT 2 ALL TESTS		UNIT 3 ALL TESTS		UNIT 4 ALL TESTS	
[PM-FIL] (lb/mmBtu)	Opacity (%)	[PM-FIL] (lb/mmBtu)	Opacity (%)	[PM-FIL] (lb/mmBtu)	Opacity (%)	[PM-FIL] (lb/mmBtu)	Opacity (%)
0.040	8.5	0.031	10.6	0.030	7.9	0.021	8.3
0.039	8.6	0.032	9.0	0.032	8.6	0.025	8.9
0.044	8.4	0.030	7.1	0.028	8.7	0.025	9.1
0.074	18.3	0.063	22.8	0.072	19.2	0.081	21.3
0.077	17.1	0.060	20.5	0.078	19.6	0.080	21.6
0.078	16.2	0.064	19.8	0.075	19.9	0.085	23.5
0.104	23.9	0.149	33.9	0.157	31.5	0.156	30.0
0.115	24.8	0.151	35.1	0.155	33.5	0.143	31.1
0.103	23.4	0.153	38.0	0.148	30.9	0.140	31.1

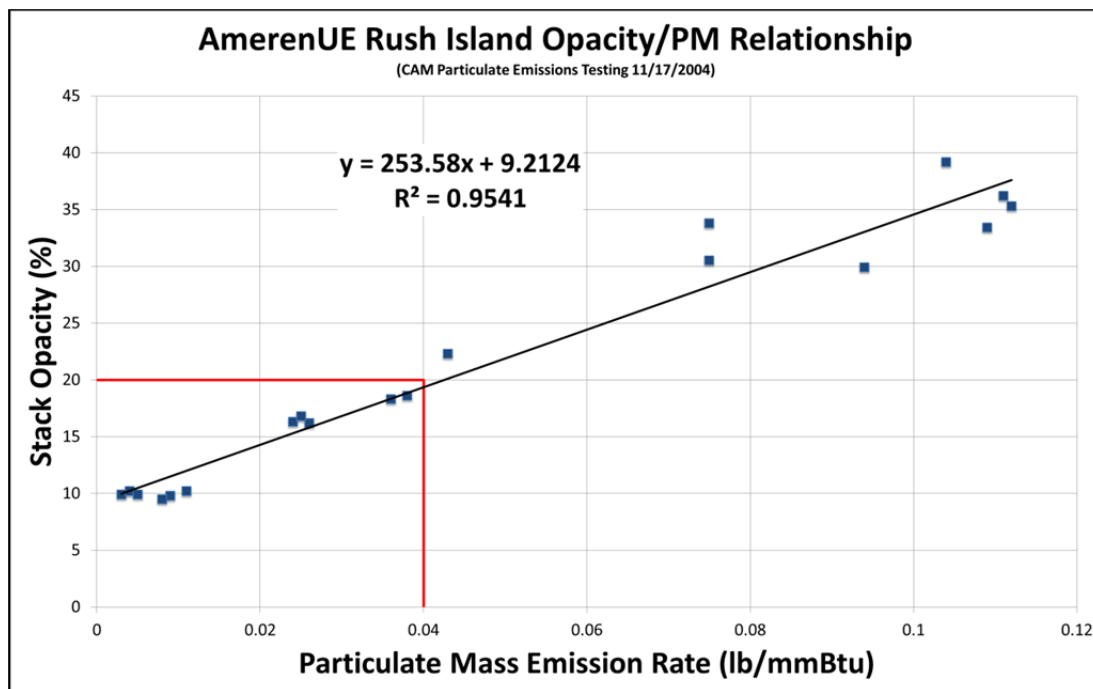


Max opacity for Unit 2 when in compliance with MATS: 13.14%



Figure (2)

ALL RUSH ISLAND TESTS	
[PM-FIL] (lb/mmBtu)	Opacity (%)
0.011	10.2
0.009	9.8
0.008	9.5
0.026	16.2
0.038	18.6
0.036	18.3
0.111	36.2
0.109	33.4
0.112	35.3
0.003	9.9
0.004	10.2
0.005	9.9
0.024	16.3
0.043	22.3
0.025	16.8
0.075	33.8
0.075	30.5
0.104	39.2
0.094	29.9

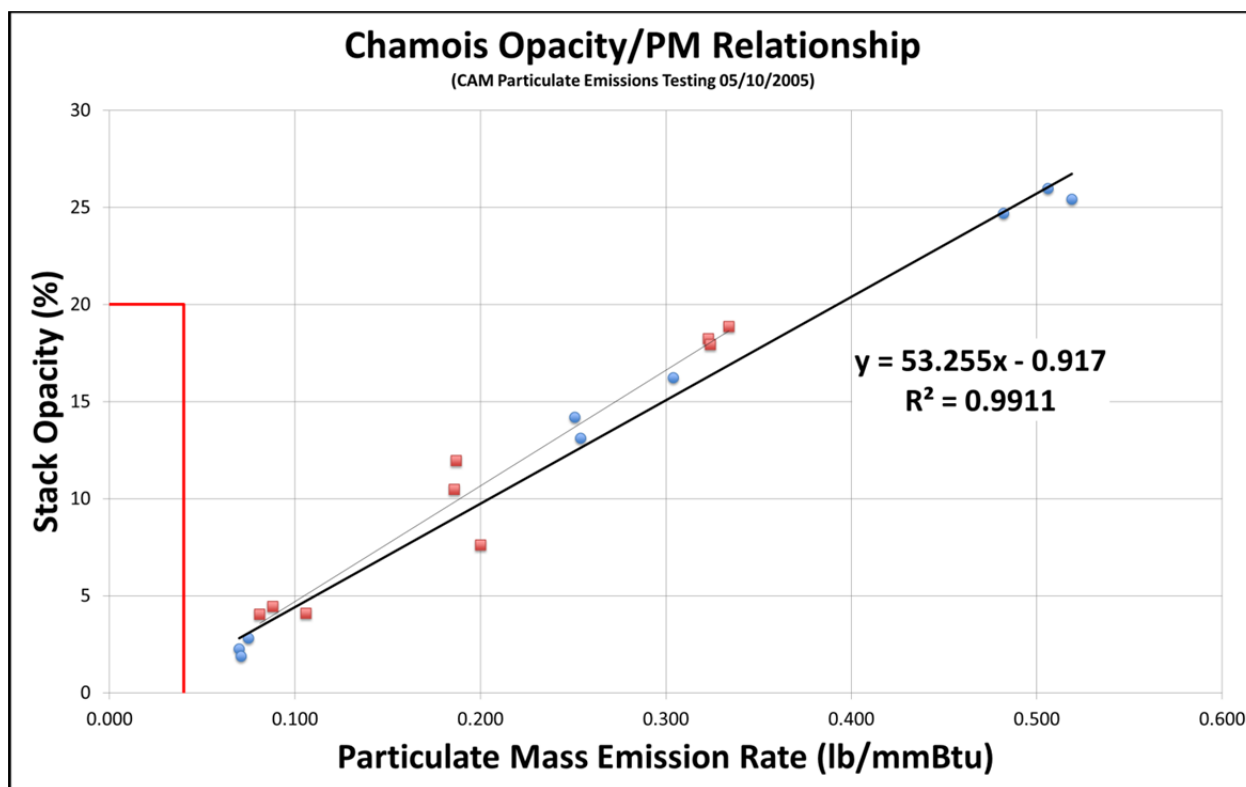


Max opacity when in compliance with MATS: 19.36%



Figure (3)

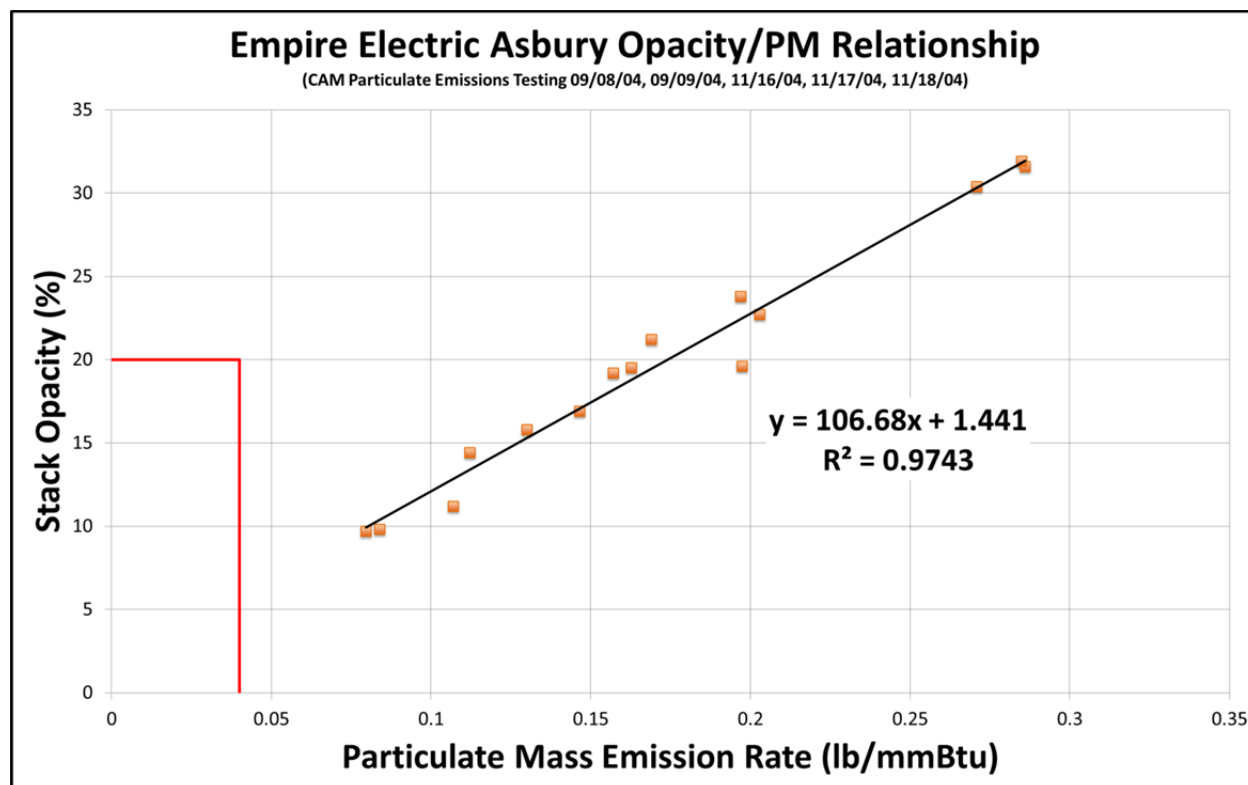
UNIT 1 ALL TESTS		UNIT 2 ALL TESTS	
[PM-FIL] (lb/mmBtu)	Opacity (%)	[PM-FIL] (lb/mmBtu)	Opacity (%)
0.075	2.81	0.106	4.09
0.070	2.26	0.081	4.03
0.071	1.89	0.088	4.45
0.482	24.70	0.334	18.87
0.519	25.43	0.323	18.24
0.506	25.97	0.324	17.92
0.304	16.22	0.200	7.61
0.251	14.19	0.186	10.46
0.254	13.12	0.187	11.96



Max opacity for Unit 1 when in compliance with MATS: 1.21%

Figure (4)

UNIT 1 ALL TESTS	
[PM-FIL] (lb/mmBtu)	Opacity (%)
0.1690	21.2
0.1970	23.8
0.2030	22.7
0.2860	31.6
0.2710	30.4
0.2850	31.9
0.1071	11.2
0.0797	9.7
0.0839	9.8
0.1628	19.5
0.1974	19.6
0.1571	19.2
0.1122	14.4
0.1301	15.8
0.1466	16.9



Max opacity for Unit 1 when in compliance with MATS: 5.71%

Table (1)

	Boeing Emissions Unit: GT-102-01 (Natural Gas Turbine)	Boeing Emission Unit: CS-STL-04 (Natural Gas Boiler)
SCC	20200201	10200603
AP-42 PM-FIL Emission Factor	1.9E-3 lb/mmBtu	1.9 lb/MMcf
PM Emissions (lb/MMcf)	1.94	1.9
Heat Capacity (Btus/MMcf)	1,020,521,946	1,022,099,407
Emission Rate (lb/mmBtu)	0.0019	0.0019

Table (2)

	Ameren-Labadie (Coal Boiler)	Ameren-Rush Island (Coal Boiler)	Central Electric (Chamois Boiler 1)	Central Electric (Chamois Boiler 2)	Empire Electric (Coal Boiler)
SCC	10100226	10100226	10100202	10100223	10100223
AP-42 PM-FIL Emission Factor (A = % Ash)	10*A	10*A	10*A	2*A	2*A
% Ash	5.04	4.86	9.36	4.81	5.66
PM Emissions (lb/TON)	50.4	48.6	93.6	9.62	11.32
Heat Capacity (Btu/TON)	17,654,920	17,302,420	21,839,167	16,898,700	17,526,000
Emission Rate (lb/mmBtu)	2.855	2.809	4.286	0.569	0.646

Table (3)

	NG Turbine (% Opacity)	NG Boiler (% Opacity)
Compared to Ameren-Labadie Correlation	5.11	5.11
Compared to Ameren-Rush Island Correlation	9.69	9.69
Compared to Chamois Boiler 1 Correlation	-0.82 (0)	-0.82 (0)
Compared to Empire Electric Correlation	2.40	2.40
Average	4.3	4.3



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The Missouri Department of Natural Resources filed the following proposed rulemakings with the secretary of state's office and comments are being accepted as noted at the end of the proposed rulemaking under the *Notice of Public Hearing and Notice to Submit Comments* heading. To submit comments electronically, use the links below the rule or to **submit written comments** see the address below.



10 CSR 10-6.210 Confidential Information

This amendment will clarify the procedures for submitting and handling confidential business information, clarify requirements for granting a claim of confidentiality and which emission data elements will be held confidential, reorganize the rule into the standard rule organization format, and remove the definitions currently listed in section (3) of the rule since they can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables.

Proposed Rulemaking - published in June 1, 2016 *Missouri Register*

Additional Information

Submit comments now

Submit written comments

Comments on this rulemaking will be accepted through close of business, Aug. 4, 2016.

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants

This amendment will remove a statement from the compliance and performance testing provisions that does not meet Clean Air Act requirements. This statement could be interpreted as allowing for exemptions from federally enforceable emission limits through the state director's discretion. This action was initiated by a petition received by the U.S. Environmental Protection Agency (EPA) concerning the treatment of excess emissions by sources during startup, shutdown, or malfunction conditions. EPA responded to the petition by finalizing a State Implementation Plan (SIP) Call that requires us to fix this deficiency in the rule. At the same time, the following exemptions are being added to reduce regulatory burden and eliminate duplicative requirements:

- power plants complying with Mercury and Air Toxics Standards (MATS)
- certain sources subject to the federal boiler Maximum Achievable Control Technology (MACT) regulations
- fugitive emissions subject to 10 CSR 10-6.170, and
- units designed to burn certain gaseous fuels such as natural gas.

Additional clarification and maintenance changes are also being incorporated into this rulemaking.

Proposed Rulemaking - published in May 2, 2016 *Missouri Register*

Additional Information

Technical support document 

Submit comments now

Submit written comments

Comments on this rulemaking will be accepted through close of business, Aug. 4, 2016.

 **Submit written comments about any rule development to:**

Chief, Air Quality Planning Section
Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102-0176

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Bechtel, Cheri

From: Missouri DNR <MODNR@public.govdelivery.com>
Sent: Thursday, June 23, 2016 1:47 PM
To: Moore, Kyra; Bybee, Darcy; Payne, Stan; Nahach, Lisa; Bungart, Renee; wendy.vit@dnr.mo.gov; Bastian, Tom; Alexander, Jennifer; Bechtel, Cheri; Deidrick, Steph
Subject: Courtesy Copy: Missouri Air Conservation Commission - July 28, 2016 Public Hearing

This is a courtesy copy of an email bulletin sent by Cheri Bechtel.

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MISSOURI AIR CONSERVATION COMMISSION WILL HOLD PUBLIC HEARING

JEFFERSON CITY, MO -- The Missouri Air Conservation Commission will hold a public hearing on Thursday, July 28, 2016 beginning at 9 a.m. at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. The commission will hear testimony related to the following proposed action(s):

- * **10 CSR 10-6.220** (amendment) Restriction of Emission of Visible Air Contaminants

The purpose of this rulemaking is to remove a statement from the compliance and performance testing provisions that does not meet Clean Air Act requirements. This statement could be interpreted as allowing for exemptions from federally enforceable emission limits through the state director's discretion. This action was initiated by a petition received by the U.S. Environmental Protection Agency (EPA) concerning the treatment of excess emissions by sources during startup, shutdown, or malfunction conditions. EPA responded to the petition by finalizing a State Implementation Plan (SIP) Call that requires us to fix this deficiency in the rule. At the same time, the following exemptions are being added to reduce regulatory burden and eliminate duplicative requirements:

- power plants complying with Mercury and Air Toxics Standards (MATS)
- certain sources subject to the federal boiler Maximum Achievable Control Technology

- (MACT) regulations
- fugitive emissions subject to 10 CSR 10-6.170, and
- units designed to burn certain gaseous fuels such as natural gas.

Additional clarification and maintenance changes are also being incorporated into this rulemaking.

* **10 CSR 10-6.210** (amendment) Confidential Information

This amendment will clarify the procedure that businesses are to follow when submitting confidential business information. These changes include: submitting a claim of confidentiality with the initial submittal of any confidential information; requiring a separate, publicly viewable, version of the information be provided with a confidentiality claim; clarifying requirements for granting a claim of confidentiality and which emission data elements will be held confidential; reorganizing the rule into the standard rule organization format; and removing definitions currently listed in the rule since they can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables.

* Missouri State Implementation Plan Revision - Redesignation Request and Maintenance Plan for the St. Louis (MO) 2008 Ozone Standard Nonattainment Area

This SIP revision addresses redesignation requirements, per the Clean Air Act, for the St. Louis (MO) nonattainment area under the 2008 ozone standard. The St. Louis (MO) area counties of Franklin, Jefferson, St. Charles, St. Louis and St. Louis city were designated nonattainment by the U.S. Environmental Protection Agency (EPA) on May 21, 2012, and monitoring data for 2013 to 2015 show the area has attained the standard of 75 parts per billion. The SIP revision includes a maintenance plan to demonstrate the St. Louis (MO) area will continue to meet the standard in future years as outlined in emission inventory projections, contingency measures, and motor vehicle budgets. Redesignation to attainment will occur when EPA gives final approval of this plan.

If the commission adopts the action(s), it will be the department's intention to submit the action(s) to the U.S. Environmental Protection Agency to be included in Missouri's State Implementation Plan unless otherwise noted above.

Documents for the above item(s) will be available for review at the Missouri Department of Natural Resources, Air Pollution Control Program, 1659 Elm Street, Jefferson City, (573) 751-4817 and in the Public Notices section of the program web site <http://dnr.mo.gov/env/apcp/public-notice.htm>. This information will be available at least 30 days prior to the public hearing date.

The department will accept written or email comments for the record until 5 p.m. on August 4, 2016. Please send written comments to Chief, Air Quality Planning Section, Air Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102-0176. Email comments may be submitted via the program web site noted above. All written and email comments and public hearing testimony will be equally considered.

Citizens wishing to speak at the public hearing should notify the secretary to the Missouri Air Conservation Commission, Missouri Department of Natural Resources, Air Pollution Control Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or telephone (573) 751-7840. The department requests persons intending to give verbal presentations also provide a written copy of their testimony to the commission secretary at the time of the public hearing.

Persons with disabilities requiring special services or accommodations to attend the meeting can make arrangements by calling the program directly at (573) 751-4817, the Division of Environmental Quality's toll free number at (800) 361-4827, or by writing two weeks in advance of the meeting to: Missouri Department

of Natural Resources, Air Conservation Commission Secretary, P.O. Box 176, Jefferson City, MO 65102. Hearing impaired persons may contact the program through Relay Missouri, (800) 735-2966\TTY.

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HEARING 7/28/2016

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

MISSOURI AIR CONSERVATION COMMISSION MEETING
PUBLIC HEARING

ELM STREET CONFERENCE CENTER
1730 EAST ELM STREET
LOWER LEVEL
BENNETT SPRINGS CONFERENCE ROOM
JEFFERSON CITY, MISSOURI 65101
JULY 28, 2016

Commencing at 9:00 a.m.

Commission Members Present:

Gary Pendergrass, Chairman
David Zimmerman
Jack Baker
Mark Garnett, Via Telephone
Jack Jones, Via Telephone

REPORTED BY:

MS. AMANDA N. FARRAR, CCR
Midwest Litigation Services
711 North Eleventh Street
St. Louis, Missouri 63101
(314)644-2191

1 P R O C E E D I N G S

2 (The hearing commenced at 9:03 a.m.)

3 CHAIRMAN PENDERGRASS: Public hearing
4 will come to order.

5 Let the record show that the following
6 commissioners are present: Mark Garnett, Gary
7 Pendergrass, David Zimmerman and Jack Jones.

8 The Air Conservation Commission of the
9 State of Missouri has called this public hearing
10 pursuant to section 643.070, Revised Statutes of
11 Missouri, EPA Promulgated Rule 40 CFR 51.102, for
12 the purpose of hearing testimony related to 10 CSR
13 10-6.220 (amendment) restriction of emission of
14 visible air contaminants; 10 CSR 10-6.210
15 (amendment) confidential information; and Missouri
16 State implementation plan revision, redesignation
17 request and maintenance plan for the St. Louis,
18 Missouri 2008 ozone standard nonattainment area.

19 The hearing record will close at 5 p.m.
20 on August 4th, 2016.

21 Anyone who has not been scheduled to
22 appear but who wishes to be heard should indicate
23 that you wish to speak on the sign-in sheet
24 available at the door.

25 Section 643.100 of the Missouri statutes

1 rulemakings 10 CSR 10-6.220, restriction of emission
2 of visible air contaminants, and 10 CSR 10-6.210,
3 confidential information, including notices of
4 public hearing in the Missouri Register on May 2nd,
5 2016 and June 1st, 2016.

6 In addition to making the proposed
7 rulemakings and plan available for viewing and
8 comment, the air pollution control program
9 distributed the public hearing notice to nearly 700
10 citizens, organizations, corporations, associations
11 and elected officials.

12 Finally, we notified the Kansas City,
13 St. Louis County and Springfield local air pollution
14 control agencies, Illinois, Kansas and other
15 surrounding states and the U.S. Environmental
16 Protection Agency of this public hearing.

17 Chairman, that concludes my testimony.

18 CHAIRMAN PENDERGRASS: Thank you. Wayne
19 Graf.

20 (The witness was sworn in.)

21 MR. GRAF: Good morning, Chairman,
22 members of the Commission. My name is Wayne Graf
23 and I am employed with the Missouri Department of
24 Natural Resources air pollution control program,
25 located at 1659 East Elm Street in Jefferson City,

1 Missouri.

2 I am here to present testimony for the
3 proposed amendment to 10 CSR 10-6.220, restriction
4 of emission of visible air contaminants. The rule
5 text begins on page 115 of the briefing document.

6 This rulemaking addresses a state
7 implementation plan or SIP call issued by the U.S.
8 Environmental Protection Agency in 2013 to remove
9 language that can be interpreted to allow an
10 exemption from federally-enforceable emission
11 limitations at the state director's discretion, and
12 has been deemed impermissible. The language being
13 removed is subsection (3)(C).

14 In addition, the proposed amendment will
15 eliminate overlap with federal regulations, reduce
16 unnecessary regulatory burden, and clarify
17 requirements for demonstrating compliance with the
18 regulation.

19 In the applicability section: The
20 applicability statement will be revised to clarify
21 that water vapor is not regulated as visible
22 emissions under this rule. The internal combustion
23 engine or ICE exemption will be revised to include
24 all ICEs, because the rule is not intended to
25 regulate mobile ICEs in the Kansas City and

1 Regional Chamber Environmental Council, a group that
2 historically on air and ozone issues has been
3 extremely active in working with the agencies and
4 been in front of this commission a lot over the last
5 20 years.

6 And in a recent meeting we decided as a
7 group that it would just be good to stand up and say
8 that we support these proposed changes that just
9 discussed, and David I think hit most of the high
10 points there, but as far as representing the
11 entirety of our committee and the point sources,
12 area sources involved in that we appreciate the
13 changes and support -- they're helpful in the
14 operations of day-to-day businesses of our members.

15 So, that's all I had was just a thank
16 you and, yeah, we support this.

17 CHAIRMAN PENDERGRASS: Any questions for
18 Mike?

19 Thank you.

20 MR. ALESANDRINI: Thanks.

21 CHAIRMAN PENDERGRASS: Next is 10 CSR
22 10-6.210.

23 Wayne.

24 (The witness was sworn in.)

25 MR. GRAF: Mr. Chairman, members of the

1 Commission, my name is Wayne Graf and I work at the
2 Missouri Department of Natural Resources air
3 pollution control program, located at 1659 East Elm
4 Street in Jefferson City, Missouri.

5 I am here to present testimony on a
6 proposed amendment to 10 CSR 10-6.210, confidential
7 information. The rule text begins on page 125 of
8 the briefing document.

9 This rulemaking clarifies the procedure
10 that businesses should follow when submitting
11 confidential business information. The changes
12 will: Advise businesses to submit a claim of
13 confidentiality with the initial submittal of any
14 confidential information and require that a
15 separate, publicly-viewable version of the
16 information be provided; and clarify the
17 requirements for granting a claim of confidentiality
18 and which emission data elements will be held
19 confidential. These amendments will reduce the risk
20 of releasing confidential information to the public
21 and provide a more specific description of
22 confidential information.

23 This rulemaking will also restructure
24 the rule into the standard rule organization format;
25 and remove definitions currently listed in section

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions,
Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri

PROPOSED AMENDMENT

10 CSR 10-6.210 Confidential Information. The commission proposes to amend sections (1)–(5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regis/index.html.

PURPOSE: *This rule provides procedures and conditions for handling confidential information. This amendment clarifies the procedures for submitting and handling confidential business information, clarifies requirements for granting a claim of confidentiality, reorganizes the rule into the standard rule organization format, and removes the definitions currently listed in section (3) of the rule since they can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is September 19, 2013, meeting minutes for a meeting with Missouri Department of Natural Resources management to discuss issues with the procedures for submitting and handling confidential business information and claims of confidentiality, and a Rule Comment Form dated December 23, 2003 from a Missouri Department of Natural Resources staff member.*

(1) [Application] Applicability. This rule shall apply to all business information requested to be designated confidential *[by the Missouri Air Conservation Commission. This rule shall not apply to emission data included in the information that shall not be entitled to confidential treatment, as provided by section 643.050.4., RSMo.]* under Chapter 643, RSMo.

[(2) General. Any information submitted pursuant to this rule or other rules of the Missouri Air Conservation Commission that contains, or from which could be derived, confidential business information, shall be kept confidential by the commission and employees and agents of the Department of Natural Resources if a timely request for confidentiality is made by the person submitting the information.]

[(3)](2) Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

[(A) Definitions for key words used in this rule may be found in 10 CSR 10-6.020(2).

(B) Additional definitions specific to this rule are as follows:

1. Confidential business information—Secret processes, secret methods of manufacture or production, trade secrets and other information possessed by a business that, under existing legal concepts, the business has a right to preserve as confidential, and to limit its use by not disclosing it to others in order that the business may obtain or retain business advantages it derives from its rights in the information; and

2. Emission data—

A. The identity, amount, frequency, concentration or other characteristics (related to air quality) of any air contaminant which—

(I) Has been emitted from an emission unit;

(II) Results from any emission by the emissions unit;

(III) Under an applicable standard or limitation, the emissions unit was authorized to emit; or

(IV) Is a combination of any of the parts (3)(B)2.A.(I), (II) or (III) of this rule;

B. The name, address (or description of the location) and the nature of the emissions unit necessary to identify the emission units including, a description of the device, equipment, or operation constituting the emissions unit; and

C. The results of any emission testing or monitoring required to be reported under this rule or other rules of the commission.]

(3) General Provisions. Any information or records submitted or obtained pursuant to Chapter 643, RSMo, is subject to public disclosure unless a request for confidentiality is made by the person submitting the information or records and the request has been approved pursuant to the following procedures:

[(4)](A) Procedures.

[(A)]1. An owner or operator who wishes to claim confidentiality for any information submitted pursuant to this rule or other rules of the commission *[shall]* **should** submit a claim of confidentiality *[within ten (10) working days following the time]* when the information is **initially** submitted. *[Failure to submit a claim of confidentiality within the required time shall result in a waiver of any claim to confidentiality.]* Failure to submit a claim of confidentiality when the information is initially submitted may result in public disclosure.

[(B)]2. The claim of confidentiality shall be accompanied by a justification that the information is entitled to confidential treatment.

3. When information claimed to be confidential is being submitted with a permit application, emissions report, or any other documentation containing information subject to public disclosure, a separate version that may be viewed by the public shall be provided by the owner or operator.

[(C)]4. Upon receipt of a *[timely]* claim of confidentiality, the director shall evaluate the claim and inform the owner or operator that the claim has been *[granted]* **approved**, or that a preliminary decision has been made to deny the claim in whole or in part. Until that time in which the claim is reviewed it shall be held in confidence.

[(D)]5. *[The owner or operator shall have fifteen (15) working days from the receipt of the preliminary decision to deny the claim in which to submit further justification or comments to the director.]* If a claim of confidentiality is denied in the preliminary review, the owner or operator will have **fifteen (15) days from the date of the denial letter to submit further justification or comments to the director for consideration in the final decision on confidentiality.** The director shall inform the owner or operator of his/her final decision on whether the claim will be denied in whole or in part within ten (10) working days of receiving the owner or operator's further justification or comments.

[(E)]6. The owner or operator may appeal *[to the commission from]* the director's final decision to deny a claim of confidentiality, in whole or in part *[by filing a notice of appeal with the staff director within twenty (20) working days after receipt of the director's final decision], to the administrative hearing commission pursuant to 621.250, RSMo, and 10 CSR 10-1.030.* Upon the timely filing of a notice of appeal, the confidentiality of the information shall be preserved until the entry of a final order by the commission.

[(F)]7. If the commission's final decision is to deny the claim of confidentiality, in whole or in part, the director shall treat the information as subject to public disclosure unless the owner or operator files a timely action for judicial review pursuant to *[section]* 536.110, RSMo. If a timely action for judicial review is filed, the confidentiality of the information shall be preserved until adjudication of the matter upon judicial review.

[(G)]8. A claim of confidentiality under this rule shall be

[granted] approved if—

[1./A. The owner or operator has asserted a business confidentiality claim that has not expired by its terms[, *been waived*] or *been withdrawn*;

[2./B. The owner or operator has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to take those measures;

[3./C. The information is not, and has not been, reasonably obtained without the owner's or operator's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special needs in a judicial or quasi-judicial proceeding);

[4./D. No statute specifically requires public disclosure of the information;

[5./E. The information is not emission data **that is required to be reported to the U.S. Environmental Protection Agency under 40 CFR 51.15 with the exception of the following data elements which can be claimed to be confidential with justification the department approves:**

(I) Activity/throughput (for each period reported);

(II) Emission factor;

(III) Winter throughput (percent);

(IV) Spring throughput (percent);

(V) Summer throughput (percent);

(VI) Fall throughput (percent);

(VII) Design capacity (including boiler capacity, if applicable) (MHDR);

(VIII) Primary capture and control efficiencies (percent); and

(IX) Total capture and control efficiency (percent); and

[6./F. The owner or operator has satisfactorily shown that *[public disclosure of the information]*—

[A.]/(I) *[Is]* Public disclosure of the information is likely to cause substantial harm to the business' competitive position; or

[B.]/(II) *[Was]* The information was voluntarily submitted and *[its disclosure would be likely to impair the director's ability to obtain necessary information]* if disclosed, the submitter would be reluctant to provide additional information to the director in the future. Information is voluntarily submitted if the facility has no statutory, regulatory, or contractual obligation to provide the information; or the director has no statutory, regulatory, or contractual authority to obtain *[some benefit or avoid some disadvantage under the Missouri Air Conservation Law and implementing rules (for example, information required to obtain a permit or other approval is submitted to obtain a benefit from the Missouri Air Conservation Commission)]* the information under federal or state law[.]; and

[(5)/](B) Conditions for Any Disclosure.

[(A)/]1. Public [R/request. Upon receipt of a request from a member of the public for release of any information submitted under a claim of confidentiality, and for which the claim has not been finally denied, the director shall inform both the person making the request and the owner or operator that the request for the information is denied or that a tentative decision has been made to release the information. A preliminary decision to release the information shall be treated in the same manner as a preliminary decision to deny a claim of confidentiality under [subsections (4)(C)–(G)] paragraphs (3)(A)4.–8. of this rule.

[(B)/]2. Confidential and [P/public [I/information. *[If the information submitted under a claim of confidentiality contains both information which is entitled to confidential treatment and emission data or other information not entitled to confidential treatment, the director may take reasonable steps to segregate that information entitled to confidential treatment from that subject to public disclosure. These steps may include, without limitation, photocopying for the public file*

only portions of the submitted information or applying techniques that would result in confidential information being blacked out in the photocopying process.] If information entitled to confidentiality cannot reasonably be separated from *[emission data]* information not entitled to confidentiality, all the information must be treated as subject to public disclosure.

[(C)/]3. Public [R/release. The director and his/her designees shall not release to the public, or place in the public file, any information for which a *[timely]* claim of confidentiality has been made until the procedures under [subsections (4)(C)–(G) and (5)(A)] paragraphs (3)(A)4.–8. and (3)(B)1. of this rule have been observed.

[(D)/]4. Disclosure to [L/local [A/agencies. Information submitted under a claim of confidentiality, *[and]* where the claim has not been finally denied, may be disclosed to local air pollution control agencies if—

[1./A. The owner or operator is given prior notice fifteen (15) working days in which to obtain an order from a court of competent jurisdiction restraining or enjoining the disclosure to the local agency, and if no such order is obtained, or obtained and later dissolved; or

[2./B. The local agency has ordinances or regulations respecting the treatment of confidential business information that is equivalent to this rule, the director provides notice to the owner or operator that the information is being disclosed to the local agency, and the director informs the local agency that the information is subject to a claim of confidentiality.

[(E)/]5. Disclosure to [A/administrator. Information submitted under a claim of confidentiality, *[and]* where the claim has not been finally denied, may be disclosed to the administrator provided the administrator agrees, pursuant to 40 CFR 2.215, that the information will be kept confidential.

[(F)/]6. Subpoenas for [C/confidential [I/information. The director shall respond to subpoenas and discovery requests for information submitted under a claim of confidentiality, if the claim has not been finally denied, in a manner that is designed to preserve the claim of confidentiality until a confidentiality determination is made by a court or other tribunal of competent jurisdiction.

(4) Reporting and Record Keeping. (Not Applicable)

(5) Test Methods. (Not Applicable)

AUTHORITY: section 643.050, RSMo Supp. [1992] 2013. Original rule filed Sept. 2, 1993, effective May 9, 1994. Amended: Filed May 2, 2016.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., July 28, 2016. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., August 4, 2016. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.220 **Restriction of Emission of Visible Air Contaminants.** The commission proposes to amend the rule purpose and sections (1)–(5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regis/index.html.

PURPOSE: This amendment removes a statement from the compliance and performance testing provisions that does not meet Clean Air Act requirements, adds exemptions for emission units regulated by stricter federal and state regulations or that do not have the capability of exceeding the emission limits of this rule, and adds an alternative test method. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Federal Register notice 78 FR 12460, dated February 22, 2013.

PURPOSE: This rule specifies the maximum allowable opacity of visible air contaminant emissions, unless specifically exempt or regulated by 10 CSR 10-6.070 and requires the use of continuous monitoring systems [(COMS)] (CMS) on certain air contaminant [sources] emission units.

(1) **Applicability.** This rule applies to all sources of visible emissions, **excluding water vapor**, throughout the state of Missouri with the exception of the following:

(A) Internal combustion engines *[operated outside the Kansas City or St. Louis metropolitan areas and stationary internal combustion engines operated in the Kansas City or St. Louis metropolitan areas]*;

(G) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher;

(H) Emission *[sources] units* regulated by 10 CSR 10-6.070 and the provisions of 40 CFR *[part]* 60, promulgated as of July 1, *[2007]* **2013**, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions; *[and]*

(I) Any open burning that is exempt from open burning rule 10 CSR 10-6.045~~[/]~~;

(J) Emission units regulated by 40 CFR 63 subpart DDDDD—*National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters* that meet one (1) of the following criteria:

1. Constructed or reconstructed after June 4, 2010;

2. The unit is subject to a ten percent (10%) opacity limit as described in Table 4 of 40 CFR 63 subpart DDDDD; or

3. The unit is in Table 2 of 40 CFR 63 subpart DDDDD and has a filterable particulate matter limitation of less than or equal to 4E-02 pounds per million British thermal units (lbs/MMBtu);

(K) Fugitive emissions subject to 10 CSR 10-6.170;

(L) Any emission unit burning only natural gas, landfill gas, propane, liquefied petroleum gas, digester gas, or refinery gas;

(M) Emission units regulated by 40 CFR 63 subpart JJJJJ—*National Emission Standards for Hazardous Air Pollutants for*

Industrial, Commercial, and Institutional Boilers Area Sources that meet all of the following criteria:

1. Constructed or reconstructed after June 4, 2010;

2. In compliance with the 3.0E-02 lbs/MMBtu filterable particulate matter emission limit described in Table 1 of 40 CFR 63 subpart JJJJJ or maintaining opacity to less than or equal to 10 percent as described in Table 3 of 40 CFR 63 subpart JJJJJ; and

3. Demonstrating compliance with a continuous monitoring system (CMS), including a continuous emission monitoring system (CEMS), a continuous opacity monitoring system (COMS), or a continuous parameter monitoring system (CPMS);

(N) Emission units regulated by 40 CFR 63 subpart UUUUU—*Mercury and Air Toxics Standards*, and demonstrating compliance with a particulate matter continuous emission monitoring system; and

(O) Emission units that are contained within and emit only within a building space. This does not include emission units with a collection device vented outside the building space.

(2) **Definitions.** Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

[(A) Capacity factor—Ratio (expressed as a percentage) of a power generating unit's actual annual electric output (expressed in Mwe hr) divided by the unit's nameplate capacity multiplied by 8,760 hours.

(B) Continuous Opacity Monitoring System (COMS)—All equipment required to continuously measure and record the opacity of emissions within a stack or duct. Continuous Opacity Monitoring Systems consist of sample interface, analyzer and data recorder components and usually include, at a minimum: transmissometers, transmissometer control equipment, and data transmission, acquisition, and recording equipment.

(C) Six (6)-minute period—A three hundred sixty (360) consecutive second time interval. Six (6)-minute block averages shall be utilized for COMS data per the provisions of Appendix B to 40 CFR part 60, Performance Specification 1, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

(D) Smoke generating device—A specialized piece of equipment which is not an integral part of a commercial, industrial or manufacturing process and whose sole purpose is the creation and dispersion of fine solid or liquid particles in a gaseous medium.

(E) Source—Any part or activity of an installation that emits or has the potential to emit any regulated air pollutant.

(F) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.]

(3) **General Provisions.**

(A) **Visible Emissions Limitations.**

[(A)]1. Maximum Visible Emissions Limitations. Unless specified otherwise in this rule, no owner or [other person] operator shall cause or permit to be discharged into the atmosphere from any [source] emission unit, not exempted under this rule, any visible emissions greater than the limitations in the following table for any continuous six (6)-minute period as measured by the test method used to demonstrate compliance with this rule:

Area of State	Visible Emission Limitations	
	Existing <i>[Sources]</i> Emission Units	New <i>[Sources]</i> Emission Units
Kansas City Metropolitan Area	20%	20%
St. Louis Metropolitan Area	20%*	20%
Springfield-Greene County Area	40%	20%
Outstate Area	40%	20%

*Exception: Existing *[sources]* emission units in the St. Louis metropolitan area that are not incinerators and emit less than twenty-five (25) lbs/hr of particulate matter shall be limited to forty percent (40%) opacity.

[(B)]2. Visible Emissions Limitations, Exceptions Allowed In One (1) **Continuous** Six (6)-Minute Period. The visible emissions limitations in the following table shall be allowed for *[a period not aggregating more than]* one (1) **continuous** six (6)-minute period in any sixty (60) minutes **as measured by the test method used to demonstrate compliance with this rule:**

Area of State	Visible Emission Limitations, Exceptions	
	Existing <i>[Sources]</i> Emission Units	New <i>[Sources]</i> Emission Units
Kansas City Metropolitan Area	60%**	60%**
St. Louis Metropolitan Area	40%	40%
Springfield-Greene County Area	60%**	60%**
Outstate Area	60%	60%

**This exception does not apply to existing and new incinerators in the Kansas City metropolitan area and Springfield-Greene County.

[(C)] *Visible emissions over the limitations shown in subsection (3)(B) of this rule are in violation of this rule unless the director determines that the excess emissions do not warrant enforcement action based on data submitted under 10 CSR 10-6.050 Start-Up, Shutdown and Malfunction Conditions.*

[(D)](B) Failure to meet the requirements of subsection (3)(A) solely because of the presence of uncombined water shall not be a violation of this rule.

[(E)] *The following emission sources shall have COMS installed, calibrated, maintained and operated in accordance with 40 CFR part 60, Performance Specification 1:*

1. *Coal-fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal-fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement;*

2. *Portland cement calcining kiln operations; and*

3. *Sources that require COMS under 10 CSR 10-6.070 New Source Performance Regulations.*

(F) *All sources shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.*

[(G)](C) Compliance Determination. Compliance for any *[source]* emission unit to which this rule applies shall be determined from opacity measurements taken in accordance with subsection (3)*[(E)](D)* or (3)*[(F)](E)* of this rule. *[If a COMS is malfunctioning, a non-department qualified observer measurement may be used as a temporary substitute.]* If opacity measurements taken by a non-department qualified observer differ from visual measurements taken by a qualified department observer, the qualified department observer's opacity measurements shall be used to determine compliance.

(D) The following emission units shall install a CMS in accordance with subsection (3)(F) of this rule:

1. Unless exempt under section (1) of this rule, coal-fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal-fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement; and

2. Portland cement calcining kiln operations.

(E) Unless otherwise specified in this rule, owners or operators shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.

[(H)] *Continuous Opacity Monitoring Systems (COMS) General Requirements.*

(F) Continuous Monitoring Requirements. Sources with emission units that are required to install a CMS must select one (1) of the following options:

1. Install, calibrate, and maintain a COMS according to the following conditions:

[1.]A. Source operating time includes any time fuel is being combusted and/or a fan is being operated*./;*

[2.]B. Cycling time. Cycling times include the total time a monitoring system requires to sample, analyze, and record an emission measurement. Continuous monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive ten (10)-second period*./;*

[3.]C. Certification. All COMS shall be certified by the director after review and acceptance of a demonstration of conformance with 40 CFR *[Part]* 60, Appendix B, Performance Specification 1*./;*

[4.]D. Audit authority. All COMS shall be subject to audits conducted by the department, and all COMS records shall be made available upon request to department personnel*./;* **or**

[5.]2. [Alternative monitoring methods.] **Install, calibrate, and maintain an alternative CMS according to the following conditions:**

A. All alternative CMS, monitoring systems requirements, system locations, **reporting and record keeping requirements**, and procedures for operation and maintenance *[which do not meet the requirements of this rule]* must be approved by the staff director*./* **Submittals for approval determination must—] and the U.S. Environmental Protection Agency (EPA); and incorporated into this rule and the state implementation plan (SIP) prior to implementation;**

[A.]B. Demonstrate that a requirement of *[subsection (3)(H), (4)(A) and/or (4)(B)]* **paragraph (3)(F)1. or section (4)** of this rule cannot be practically met; and

[B.]C. Demonstrate that the alternative CMS produces results that adequately verify compliance.

(G) If a CMS is malfunctioning, a non-department qualified observer measurement may be used as a temporary substitute.

[(I)](H) Time Schedule for Compliance.

1. All new *[sources]* emission units shall comply when operations begin; and

2. All existing *[sources]* emission units shall comply as of the effective date of this rule.

(4) Reporting and Record Keeping.

(A) COMS Reporting. Owners or operators *[of sources]* required to install COMS shall submit a quarterly written report to the director. All quarterly reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter and shall include the following emissions data:

1. A summary including total time for each cause of excess emissions and/or monitor downtime;

2. Nature and cause of excess emissions, if known;

3. The six (6)-minute average opacity values greater than the opacity emission requirements (The average of the values shall be

obtained by using the procedures specified in the Reference Method used to determine the opacity of the visible emissions);

4. The date and time identifying each period during which the COMS was inoperative (except for zero and span checks), including the nature and frequency of system repairs or adjustments that were made during these times; and

5. If no excess emissions have occurred during the reporting period and the COMS has not been inoperative, repaired or adjusted, this information shall be stated in the report.

(B) COMS Records to be Maintained. Owners or operators of affected *[sources]* emission units shall maintain a file (hard copy or electronic version) of the following information for a minimum of two (2) years from the date the data was collected:

1. All information reported in the quarterly summaries; and

2. All six (6)-minute opacity averages and daily Quality Assurance (QA)/Quality Control (QC) records.

(5) Test Methods.

(A) *[Emissions from Stationary Sources—Use one (1) of the following four (4) methods:*

1.] Qualified observer in accordance with 10 CSR 10-6.030(9)(A), *[Reference]* Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources[.].

[2. Qualified observer in accordance with the provisions of 40 CFR part 51, Appendix M—Recommended Test Methods, Method 203A—Visual Determination of Opacity of Emissions from Stationary Sources for Time-Averaged Regulations, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;

3. Qualified observer in accordance with the provisions of 40 CFR part 51, Appendix M—Recommended Test Methods, Method 203B—Visual Determination of Opacity of Emissions from Stationary Sources for Time-Exception Regulations, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions; or

4. Continuous Opacity Monitoring System that complies with and is installed, calibrated, maintained, and operated in accordance with proposed Test Method 203—Visual Determination of the Opacity of Emissions from Stationary Sources by Continuous Opacity Monitoring Systems (as proposed in the October 7, 1992, Federal Register, Volume 57, pp. 46114–46119).]

(B) *[Emissions from Mobile Internal Combustion Engines—Use a qualified observer in accordance with the provisions of 40 CFR part 60, Appendix A—Test Methods, Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.] Photogrammetric opacity measurement in accordance with EPA Method ALT-082—Digital camera opacity technique.*

(C) *[Fugitive Emissions from Material Sources, Smoke Emissions from Flares and As Required by Permit Condition—Use a qualified observer in accordance with the provisions of 40 CFR part 60, Appendix A—Test Methods, Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC*

20401. This rule does not incorporate any subsequent amendments or additions.] A modification of the test methods listed in subsections (5)(A) or (5)(B) of this rule. Any modification of a test method listed in subsections (5)(A) or (5)(B) of this rule must be approved by the director and the EPA; and incorporated into this rule and the SIP prior to implementation.

AUTHORITY: section 643.050, RSMo [2000] Supp. 2013. Original rule filed March 31, 1999, effective Nov. 30, 1999. Amended: Filed Feb. 28, 2002, effective Nov. 30, 2002. Amended: Filed Feb. 4, 2008, effective Sept. 30, 2008. Amended: Filed March 29, 2016.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., July 28, 2016. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., August 4, 2016. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare

PROPOSED RULE

13 CSR 40-7.050 Presumptive Eligibility

PURPOSE: The purpose of this rule is to establish the conditions under which MO HealthNet eligibility will be temporarily available to certain categories of participants based on preliminary determinations by certain categories of providers.

(1) The department shall provide MO HealthNet benefits to individuals during a period of presumptive eligibility for individuals who have been determined eligible for MO HealthNet benefits on the basis of preliminary information by a presumptive eligibility qualified entity in accordance with this rule.

(2) For the purposes of this rule—

(A) Presumptive eligibility means temporary MO HealthNet benefits for children under the age of nineteen (19) (pursuant to 42 U.S.C. sections 1396a(47) and 1396r 1a and 42 CFR sections 435.1102 and 435.1110), parents and other caretaker relatives (pursuant to 42 CFR sections 435.1103 and 435.1110), former foster care children (pursuant to 42 CFR sections 435.1103 and 435.1110), pregnant women (pursuant to 42 U.S.C. sections 1396a(47) and 1396r 1 and 42 CFR sections 435.1103 and 435.1110), and individuals with breast cancer or cervical cancer (pursuant to 42 U.S.C. sections 1396a(47) and 1396r 1b and 42 CFR sections 435.1103 and 435.1110) allowing them to receive MO HealthNet benefits before they have applied for MO HealthNet benefits through the division;

(B) Qualifying hospital has the same meaning as in 42 CFR 435.1110(b);

(C) Federally qualified health center has the same meaning as in

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90-) day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 10—Air Conservation Commission Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2013, the commission amends a rule as follows:

10 CSR 10-6.210 Confidential Information is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 2016 (41 MoReg 742-743). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment from the Regulatory Environmental Group for Missouri (REGFORM).

COMMENT #1: REGFORM commented that they support the revisions to this rule. They emphasized to the commission and staff that this rule is very important for many companies, especially for companies in competitive industries. REGFORM emphasizes that these rule changes help streamline this important process for protecting confidential business information or trade secrets.

RESPONSE: The program appreciates the positive feedback. No changes were made to the rule language as a result of these comments.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 10—Air Conservation Commission Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2013, the commission amends a rule as follows:

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 2, 2016 (41 MoReg 555-557). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received seven (7) comments from five (5) sources: Buzzi Unicem USA, the Boeing Company, an AECOM consultant representing the air committee of the St. Louis Regional Chamber Environmental Council, Kansas City Power and Light (KCPL), and AMEREN.

COMMENT #1: Buzzi Unicem USA commented that they operate two (2) Portland cement kilns in Missouri. The proposed changes to remove continuous opacity monitors (COMs) requirements from electric generating units (EGUs) subject to 40 Code of Federal Regulations (CFR) 63, Subpart UUUUU and boilers regulated under 40 CFR 63, Subparts DDDDD and JJJJJ also apply to Portland cement kilns regulated under 40 CFR 63, Subparts LLL and EEE. Kilns regulated under Subpart LLL do not have an opacity limit and are required to use particulate matter continuous parameter monitoring systems (CPMS) to monitor particulate matter (PM) emissions. Kilns regulated under Subpart EEE that use baghouses to control emissions do not have an opacity limit and are required to use a bag leak detection system (BLDS) to monitor PM emissions. The COMs at these plants are redundant systems for monitoring PM emissions and present additional maintenance, recordkeeping, and reporting burdens for Portland cement kilns. Buzzi Unicem USA recommends modifying 10 CSR 10-6.220 to remove the COM requirement for Portland cement kilns that meet these requirements.

RESPONSE: The Department of Natural Resources' Air Pollution Control Program appreciates this comment. In order to add an exemption for Portland cement kilns to this rule the department needs to prove that the exemption is not a relaxation of regulation in order for EPA to approve the amendment. For example, the exemption for power plants and boilers was proposed after reviewing particulate matter/opacity correlations in several compliance assurance monitoring (CAM) plans submitted to the department as part of the operating permit process. This data supported a correlation between compliance with 40 CFR Subparts UUUUU, DDDDD, and JJJJJ and compliance with opacity limitations. We do not currently have this data for cement kilns to prove the correlations between compliance with 40 CFR Subparts LLL and EEE and compliance with opacity limitations. If Buzzi Unicem, or another entity, submits the applicable information the department will review the information and may propose the

exemption in a future rule amendment. However, in order to move forward with this rule amendment in a timely manner we are not currently including this modification to the regulation. No changes were made to the rule language as a result of this comment.

Due to the similarity in the following three (3) comments, one (1) response is presented.

COMMENT #2: The Boeing Company commented that they support the changes to this rule. This rulemaking has been in work for several years with much collaboration among commenters in conjunction with the department's staff. This process used to gather comments for the rulemaking during the development stage was really quite good and resulted in a really helpful rule. Boeing Company particularly supports the clean fuel exemption because they have multiple stacks at their facility, only a few of which actually have any ability to generate opacity. With the rule changes, monitoring can focus on things that generate excess opacity. The monitoring schedule can be set in the operating permit or construction permit based on the unit risk of opacity violation.

COMMENT #3: The AECOM consultant, representing the air committee of the St. Louis Regional Chamber Environmental Council, commented that they support the proposed rule changes and reiterate the Boeing Company comments. To represent the entirety of the committee and point sources, area sources also appreciate the changes and support the changes that will be helpful in the day-to-day operations of members.

COMMENT #4: AMEREN commented that they are supportive of the proposed revisions to the opacity rule that recognizes that, in certain cases, opacity monitoring is unnecessary. The proposed revisions also recognize advances in technology as well as recent environmental regulations. In particular, AMEREN supports the requirement that opacity monitoring systems are not needed for facilities that are required to comply with the Mercury and Air Toxics Standards rule and have installed particulate matter continuous emissions monitoring systems on ten (10) electric generating units. They fully support the exemption for emission units burning clean fuels that will never exceed the emission limitations in the rule. In summary, AMEREN commends the Missouri Department of Natural Resources for the proposed revisions to the opacity rule and urges the State of Missouri to finalize and implement the revisions as soon as possible.

RESPONSE: The program appreciates the positive feedback. No changes were made to the rule language as a result of these comments.

COMMENT #5: KCPL suggested alternative subsection (3)(A) and (3)(B) language for a much clearer definition of the six (6)-minute block averaging period and the potential exemption of one (1) averaging period per hour up to sixty percent (60%) opacity.

RESPONSE: Section (3) of this rule establishes the requirements that applicable visible emission sources must meet. Subsections (3)(A) and (3)(B) provide the visible emission requirements and an allowable exception. Subsection (3)(E) requires that compliance determination for applicable sources must use opacity measurements taken in accordance with the test methods in section (5). The actual test method includes specific language to convey the same thoughts provided in the alternative language suggested. Therefore, no changes were made to the rule language as a result of this comment.

COMMENT #6: KCPL requested to maintain EPA Method 22 as an allowed test method as an expedient preliminary screen to identify cases where opacity is above the standard before Method 9 is applied. RESPONSE: Method 22 is being removed from the rule because it only provides qualitative measurements of visible emissions rather than quantitative measurements needed to determine compliance. Applicable sources can still use Method 22 for their own purposes or as required in their permits. No changes were made to the rule language as a result of these comments.

COMMENT #7: KCPL requested that alternative test methods not be required to be incorporated into the rule and state implementation

plan (SIP) prior to implementation. Typically, alternative test method approvals are granted on a case-by-case basis by letter to all relevant parties without rule or SIP change.

RESPONSE: The EPA requires that alternative test methods be approved by the director and EPA as well as being incorporated into the rule and the SIP. Therefore, no changes were made to the rule language as a result of this comment.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Regulation and Licensure Chapter 40—Comprehensive Emergency Medical Services Systems Regulations

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under sections 190.098, 190.109, 190.160, and 190.185, RSMo Supp. 2013, and sections 190.142 and 190.165, RSMo Supp. 2016, the department adopts a rule as follows:

19 CSR 30 40.800 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 15, 2016 (41 MoReg 782-799). Changes have been made in the text of the proposed rule, so it is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received fifteen (15) comments.

COMMENT #1: Lynthia Andrews, with the State Advisory Council on Emergency Medical Services; Shane Lockard, with the Missouri Ambulance Association; Brad Mason, with Mid-America Regional Council Emergency Rescue; Ruby Mehrer, with the Missouri Emergency Medical Services Association; B. Scott Roy, with the Ambulance District Association of Missouri; Jennifer Cordia, with Christian Hospital; Ray Antonacci, with the Lincoln County Ambulance District; Bonnie Stegman, Brian Hendricks, Christopher Bosche, Craig Walk, and Todd Besancenez, with the Mehlville Fire Protection District; Velvet Shoults, with Mercy Hospital Springfield; Kieth Pantaleo, with the Salt River Ambulance District; Ralph Hellebusch, with the Warren County Ambulance District; Shannon Watson, with the East Central Region Committee for EMS; Terry Reese, with the Missouri Nurses Association and Terisa McGinnis, with the Central Jackson County Fire Protection District request that the department change the date in paragraph (2)(A)1. from August 28, 2013, to January 1, 2016, in order to include other community paramedic pilot programs in Missouri that have come about after the effective date of the statute.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has made this change to 19 CSR 30 40.800 by changing the date in paragraph (2)(A)1. from August 28, 2013, which was the date that section 190.098, RSMo, became effective, to January 1, 2016.

COMMENT #2: Shannon Watson, with the East Central Region Committee on EMS, comments that the grandfathered programs for the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP) in paragraph (2)(A)1. should seek accreditation with CoAEMSP by January 1, 2018.

RESPONSE: Section 190.098, RSMo, does not give the department the authority to regulate the Emergency Medical Technician-Community Paramedic training entities in Missouri. Thus, the department cannot require all Emergency Medical Technician-Community Paramedic training entities in Missouri to seek accreditation with CoAEMSP by January 1, 2018. However, paragraph

10 CSR 10-6.210 Confidential Information

(1) ~~Application~~**Applicability**. This rule shall apply to all business information requested to be designated confidential ~~by the Missouri Air Conservation Commission. This rule shall not apply to emission data included in the information that shall not be entitled to confidential treatment, as provided by section 643.050.4., RSMo under Chapter 643, RSMo.~~

~~(2) General. Any information submitted pursuant to this rule or other rules of the Missouri Air Conservation Commission that contains or from which could be derived, confidential business information, shall be kept confidential by the commission and employees and agents of the Department of Natural Resources if a timely request for confidentiality is made by the person submitting the information.~~

~~(3)~~(2) Definitions. **Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.**

~~(A) Definitions for key words used in this rule may be found in 10 CSR 10-6.020(2).~~

~~(B) Additional definitions specific to this rule are as follows:~~

~~1. Confidential business information: Secret processes, secret methods of manufacture or production, trade secrets and other information possessed by a business that, under existing legal concepts, the business has a right to preserve as confidential, and to limit its use by not disclosing it to others in order that the business may obtain or retain business advantages it derives from its rights in the information; and~~

~~2. Emission data[☞]~~

~~A. The identity, amount, frequency, concentration or other characteristics (related to air quality) of any air contaminant which[☞]~~

~~(I) Has been emitted from an emission unit;~~

~~(II) Results from any emission by the emissions unit;~~

~~(III) Under an applicable standard or limitation, the emissions unit was authorized to emit; or~~

~~(IV) Is a combination of any of the parts (3)(B)2.A.(I), (II) or (III) of this rule;~~

~~B. The name, address (or description of the location) and the nature of the emissions unit necessary to identify the emission units including, a description of the device, equipment, or operation constituting the emissions unit; and~~

~~C. The results of any emission testing or monitoring required to be reported under this rule or other rules of the commission.~~

(3) General Provisions. Any information or records submitted or obtained pursuant to Chapter 643, RSMo, is subject to public disclosure unless a request for confidentiality is made by the person submitting the information or records and the request has been approved pursuant to the following procedures:

~~(4)~~(A) Procedures.

~~(A)~~ 1. An owner or operator who wishes to claim confidentiality for any information submitted pursuant to this rule or other rules of the commission ~~shall~~ **should** submit a claim of confidentiality ~~within ten (10) working days following the time~~ **when** the information is **initially** submitted. ~~Failure to submit a claim of confidentiality within the required time shall result in a waiver of any claim to confidentiality.~~ **Failure to submit a claim of confidentiality when the information is initially submitted may result in public disclosure.**

~~(B)~~ 2. The claim of confidentiality shall be accompanied by a justification that the information is entitled to confidential treatment.

3. When information claimed to be confidential is being submitted with a permit application, emissions report, or any other documentation containing information subject to public disclosure, a separate version that may be viewed by the public shall be provided by the owner or operator.

~~(C)~~ 4. Upon receipt of a ~~timely~~ claim of confidentiality, the director shall evaluate the claim and inform the owner or operator that the claim has been ~~granted~~ **approved**, or that a preliminary decision has been made to deny the claim in whole or in part. Until that time in which the claim is reviewed it shall be held in confidence.

~~(D)~~ 5. ~~The owner or operator shall have fifteen (15) working days from the receipt of the preliminary decision to deny the claim in which to submit further justification or comments to the director.~~ **If a claim of confidentiality is denied in the preliminary review, the owner or operator will have fifteen (15) days from the date of the denial letter to submit further justification or comments to the director for consideration in the final decision on confidentiality.**

The director shall inform the owner or operator of his/her final decision on whether the claim will be denied in whole or in part within ten (10) working days **of receiving the owner or operator's further justification or comments.**

~~(E)~~ **6.** The owner or operator may appeal ~~to the commission from~~ the director's final decision to deny a claim of confidentiality, in whole or part ~~by filing a notice of appeal with the staff director within twenty (20) working days after receipt of the director's final decision,~~ **to the administrative hearing commission pursuant to 621.250, RSMo, and 10 CSR 10-1.030.** Upon the timely filing of a notice of appeal, the confidentiality of the information shall be preserved until the entry of a final order by the commission.

~~(F)~~ **7.** If the commission's final decision is to deny the claim of confidentiality, in whole or in part, the director shall treat the information as subject to public disclosure unless the owner or operator files a timely action for judicial review pursuant to ~~section~~ 536.110, RSMo. If a timely action for judicial review is filed, the confidentiality of the information shall be preserved until adjudication of the matter upon judicial review.

~~(G)~~ **8.** A claim of confidentiality under this rule shall be ~~granted~~ **approved** if:—

~~1-~~ **A.** The owner or operator has asserted a business confidentiality claim that has not expired by its terms, ~~been waived~~ or **been** withdrawn;

~~2-~~ **B.** The owner or operator has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to take those measures;

~~3-~~ **C.** The information is not, and has not been, reasonably obtained without the owner's or operator's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special needs in a judicial or quasi-judicial proceeding);

~~4-~~ **D.** No statute specifically requires public disclosure of the information;

~~5-~~ **E.** The information is not emission data **that is required to be reported to the U.S. Environmental Protection Agency under 40 CFR 51.15 with the exception of the following data elements which can be claimed to be confidential with justification the department approves:**

(I) Activity/throughput (for each period reported);

(II) Emission factor;

(III) Winter throughput (percent);

(IV) Spring throughput (percent);

(V) Summer throughput (percent);

(VI) Fall throughput (percent);

(VII) Design capacity (including boiler capacity, if applicable) (MHDR);

(VIII) Primary capture and control efficiencies (percent); and

(IX) Total capture and control efficiency (percent);

and

~~6.F.~~ The owner or operator has satisfactorily shown that ~~public disclosure of the information.~~

~~A.~~ (I) ~~Is~~ Public disclosure of the information is likely to cause substantial harm to the business' competitive position; or

~~B.~~ (II) ~~Was~~ The information was voluntarily submitted and ~~its disclosure would be likely to impair the director's ability to obtain necessary information~~ if disclosed, the submitter would be reluctant to provide additional information to the director in the future. Information is voluntarily submitted if the facility has no statutory, regulatory, or contractual obligation to provide the information; or the director has not statutory, regulatory, or contractual authority to obtain ~~some benefit or avoid some disadvantage under the Missouri Air Conservation Law and implementing rules (for example, information required to obtain a permit or other approval is submitted to obtain a benefit from the Missouri Air Conservation Commission)~~ the information under federal or state law; and

~~(5)(B)~~ Conditions for Any Disclosure.

~~(A)~~ 1. Public Requestrequest. Upon receipt of a request from a member of the public for release of any information submitted under a claim of confidentiality, and for which the claim has not been finally denied, the director shall inform both the person making the request and the owner or operator that the request for the information is denied or that a tentative decision has been made

to release the information. A preliminary decision to release the information shall be treated in the same manner as a preliminary decision to deny a claim of confidentiality under ~~subsections (4)(C) and (G)~~ **paragraphs (3)(A)4.-8.** of this rule.

~~(B)~~ **2.** Confidential and ~~Public Information~~ **public information.** ~~If the information submitted under a claim of confidentiality contains both information which is entitled to confidential treatment and emission data or other information not entitled to confidential treatment, the director may take reasonable steps to segregate that information entitled to confidential treatment from that subject to public disclosure. These steps may include, without limitation, photocopying for the public file only portions of the submitted information or applying techniques that would result in confidential information being blacked out in the photocopying process.~~ If information entitled to confidentiality cannot reasonably be separated from ~~emission data~~ **information not entitled to confidentiality**, all the information must be treated as subject to public disclosure.

~~(C)~~ **3.** Public ~~Release~~ **release.** The director and his/her designees shall not release to the public, or place in the public file, any information for which a ~~timely~~ claim of confidentiality has been made until the procedures under ~~subsections (4)(C) and (G) and (5)(A)~~ **paragraphs (3)(A)4.-8. and (3)(B)1.** of this rule have been observed.

~~(D)~~ **4.** Disclosure to ~~Local Agencies~~ **local agencies.** Information submitted under a claim of confidentiality, and where the claim has not been finally denied, may be disclosed to local air pollution control agencies if ~~if~~

~~1-~~ **A.** The owner or operator is given prior notice fifteen (15) working days in which to obtain an order from a court of competent jurisdiction restraining or enjoining the disclosure to the local agency, and if no such order is obtained, or obtained and later dissolved; or

~~2-~~ **B.** The local agency has ordinances or regulations respecting the treatment of confidential business information that is equivalent to this rule, the director provides notice to the owner or operator that the information is being disclosed to the local agency, and the director informs the local agency that the information is subject to a claim of confidentiality.

~~(E)~~ **5.** Disclosure to ~~Administrator~~ **administrator.** Information submitted under a claim of confidentiality, ~~and where~~ the claim has not been finally denied, may be disclosed to the administrator

provided the administrator agrees, pursuant to 40 CFR 2.215, that the information will be kept confidential.

~~(F)~~ **6.** Subpoenas for ~~Confidential~~**confidential**
~~Information~~**information**. The director shall respond to subpoenas and discovery requests for information submitted under a claim of confidentiality, if the claim has not been finally denied, in a manner that is designed to preserve the claim of confidentiality until a confidentiality determination is made by a court or other tribunal of competent jurisdiction.

(4) Reporting and Record Keeping. (Not Applicable)

(5) Test Methods. (Not Applicable)

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants

(1) Applicability. This rule applies to all sources of visible emissions, **excluding water vapor**, throughout the state of Missouri with the exception of the following:

(A) Internal combustion engines~~operated outside the Kansas City or St. Louis metropolitan areas and stationary internal combustion engines operated in the Kansas City or St. Louis metropolitan areas~~;

(B) Wood burning stoves or fireplaces used for heating;

(C) Fires used for recreational or ceremonial purposes or fires used for the noncommercial preparation of food by barbecuing;

(D) Fires used solely for the purpose of fire-fighter training;

(E) Smoke generating devices when a required permit (under 10 CSR 10-6.060 or 10 CSR 10-6.065) has been issued or a written determination that a permit is not required has been obtained;

(F) The pyrolysis of wood for the production of charcoal in batch-type charcoal kilns (Emissions from batch-type charcoal kilns shall comply with the requirements of 10 CSR 10-6.330 Restriction of Emissions From Batch-Type Charcoal Kilns);

(G) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher;

(H) Emission ~~sources-units~~ regulated by 10 CSR 10-6.070 and the provisions of 40 CFR ~~part~~-60, promulgated as of July 1, ~~2007~~**2013**, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions; ~~and~~

(I) *This subsection referring to the open burning rule, 10 CSR 10-6.045, is not SIP approved.*

(J) **Emission units regulated by 40 CFR 63 subpart DDDDD-National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters that meet one (1) of the following criteria:**

- 1. Constructed or reconstructed after June 4, 2010;**

2. The unit is subject to a ten percent (10%) opacity limit as described in Table 4 of 40 CFR 63 subpart DDDDD; or

3. The unit is in Table 2 of 40 CFR 63 subpart DDDDD and has a filterable particulate matter limitation of less than or equal to 4E-02 pounds per million British thermal units (lbs/MMBtu);

(K) Fugitive emissions subject to 10 CSR 10-6.170;

(L) Any emission unit burning only natural gas, landfill gas, propane, liquefied petroleum gas, digester gas, or refinery gas;

(M) Emission units regulated by 40 CFR 63 subpart JJJJJJ—*National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources* that meet all of the following criteria:

1. Constructed or reconstructed after June 4, 2010;

2. In compliance with the 3.0E-02 lbs/MMBtu filterable particulate matter emission limit described in Table 1 of 40 CFR 63 subpart JJJJJJ or maintaining opacity to less than or equal to ten percent (10%) as described in Table 3 of 40 CFR 63 subpart JJJJJJ; and

3. Demonstrating compliance with a continuous monitoring system (CMS), including a continuous emission monitoring system (CEMS), a continuous opacity monitoring system (COMS), or a continuous parameter monitoring system (CPMS);

(N) Emission units regulated by 40 CFR 63 subpart UUUUU—*Mercury and Air Toxics Standards*, and demonstrating compliance with a particulate matter continuous emission monitoring system; and

(O) Emission units that are contained within and emit only within a building space. This does not include emission units with a collection device vented outside the building space.

(2) Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

~~(A) Capacity factor Ratio (expressed as a percentage) of a power generating unit's actual annual electric output (expressed in Mwe hr) divided by the unit's nameplate capacity multiplied by 8,760 hours.~~

~~(B) Continuous Opacity Monitoring System (COMS) All equipment required to continuously measure and record the opacity of~~

~~emissions within a stack or duct. Continuous Opacity Monitoring Systems consist of sample interface, analyzer and data recorder components and usually include, at a minimum: transmissometers, transmissometer control equipment, and data transmission, acquisition, and recording equipment.~~

~~(C) Six (6)-minute period A three hundred sixty (360) consecutive second time interval. Six (6) minute block averages shall be utilized for COMS data per the provisions of Appendix B to 40 CFR part 60, Performance Specification 1, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.~~

~~(D) Smoke generating device A specialized piece of equipment which is not an integral part of a commercial, industrial or manufacturing process and whose sole purpose is the creation and dispersion of fine solid or liquid particles in a gaseous medium.~~

~~(E) Source Any part or activity of an installation that emits or has the potential to emit any regulated air pollutant.~~

~~(F) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.~~

(3) General Provisions.

(A) Visible Emissions Limitations.

~~(A) 1.~~ Maximum Visible Emissions Limitations. Unless specified otherwise in this rule, no owner or ~~other person~~**operator** shall cause or permit to be discharged into the atmosphere from any ~~source~~**emission unit**, not exempted under this rule, any visible emissions greater than the limitations in the following table **for any continuous six (6)-minute period as measured by the test method used to demonstrate compliance with this rule:**

Area of State	Visible Emission Limitations	
	Existing Sources Emission Units	New Sources Emission Units
Kansas City Metropolitan Area	20%	20%
St. Louis Metropolitan Area	20%*	20%
Springfield-Greene County Area	40%	20%
Outstate Area	40%	20%

*Exception: Existing ~~sources~~**emission units** in the St. Louis metropolitan area that are not incinerators and emit less than

twenty-five (25) lbs/hr of particulate matter shall be limited to forty percent (40%) opacity.

~~(B)~~ **2.** Visible Emissions Limitations, Exceptions Allowed In One **(1) Continuous** Six (6)-Minute Period. The visible emissions limitations in the following table shall be allowed for ~~a period not aggregating more than one (1) continuous~~ six (6)-minute period in any sixty (60) minutes **as measured by the test method used to demonstrate compliance with this rule:**

Area of State	Visible Emission Limitations	
	Existing Sources Emission Units	New Sources Emission Units
Kansas City Metropolitan Area	60%**	60%**
St. Louis Metropolitan Area	40%	40%
Springfield-Greene County Area	60%**	60%**
Outstate Area	60%	60%

** This exception does not apply to existing and new incinerators in the Kansas City metropolitan area and Springfield-Greene County.

~~(C) Visible emissions over the limitations shown in subsection (3)(B) of this rule are in violation of this rule unless the director determines that the excess emissions do not warrant enforcement action based on data submitted under 10 CSR 10-6.050 Start Up, Shutdown and Malfunction Conditions.~~

~~(D)~~ **(B)** Failure to meet the requirements of subsection (3)(A) solely because of the presence of uncombined water shall not be a violation of this rule.

~~(E) The following emission sources shall have COMS installed, calibrated, maintained and operated in accordance with 40 CFR part 60, Performance Specification 1:~~

~~1. Coal-fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal-fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement;~~

~~2. Portland cement calcining kiln operations; and~~

~~3. Sources that require COMS under 10 CSR 10-6.070 New Source Performance Regulations.~~

~~(F) All sources shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.~~

~~(G)~~(C) Compliance Determination. Compliance for any ~~source~~ **emission unit** to which this rule applies shall be determined from opacity measurements taken in accordance with subsection (3)~~(E)~~(D) or (3)~~(F)~~(E) of this rule. ~~If a COMS is malfunctioning, a non-department qualified observer measurement may be used as a temporary substitute.~~ If opacity measurements taken by a non-department qualified observer differ from visual measurements taken by a qualified department observer, the qualified department observer's opacity measurements shall be used to determine compliance.

(D) The following emission units shall install a CMS in accordance with subsection (3)(F) of this rule:

1. Unless exempt under section (1) of this rule, coal-fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal-fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement; and

2. Portland cement calcining kiln operations.

(E) Unless otherwise specified in this rule, owners or operators shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.

~~(H) Continuous Opacity Monitoring Systems (COMS) General Requirements.~~

(F) Continuous Monitoring Requirements. Sources with emission units that are required to install a CMS must select one (1) of the following options:

1. Install, calibrate, and maintain a COMS according to the following conditions:

A. Source operating time includes any time fuel is being combusted and/or a fan is being operated-;

~~2-~~ B. Cycling time. Cycling times include the total time a monitoring system requires to sample, analyze, and record an emission measurement. Continuous monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of operation (sampling, analyzing and data recording) for each successive ten (10)-second period-;

~~3-~~ **C.** Certification. All COMS shall be certified by the director after review and acceptance of a demonstration of conformance with 40 CFR ~~Part~~ 60, Appendix B, Performance Specification 1-;

~~4-~~ **D.** Audit authority. All COMS shall be subject to audits conducted by the department, and all COMS records shall be made available upon request to department personnel-; **or**

5.2. Alternative monitoring methods. Install, calibrate, and maintain an alternative CMS according to the following conditions:

A. All alternative **CMS** monitoring systems requirements, system locations, **reporting and record keeping requirements**, and procedures for operation and maintenance ~~which do not meet the requirements of this rule~~ must be approved by the staff director **and the U.S. Environmental Protection Agency (EPA); and incorporated into this rule and the state implementation plan (SIP) prior to implementation.** ~~Submittals for approval determination must-~~

~~A-~~ **B.** Demonstrate that a requirement of ~~subsection (3)(H), (4)(A) and/or (4)(B)~~**paragraph (3)(F)1. or section (4)** of this rule cannot be practically met; and

~~B-~~ **C.** Demonstrate that the alternative **CMS** produces results that adequately verify compliance.

(G) If a CMS is malfunctioning, a non-department qualified observer measurement may be used as a temporary substitute.

~~(I)-(H)~~ Time Schedule for Compliance.

1. All new ~~sources~~ **emission units** shall comply when operations begin; and

2. All existing ~~sources~~ **emission units** shall comply as of the effective date of this rule.

(4) Reporting and Record Keeping.

(A) COMS Reporting. Owners or operators ~~of sources~~ required to install COMS shall submit a quarterly written report to the director. All quarterly reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter and shall include the following emissions data:

1. A summary including total time for each cause of excess emissions and/or monitor downtime;

2. Nature and cause of excess emissions, if known;

3. The six (6)-minute average opacity values greater than the opacity emission requirements (The average of the values shall be obtained by using the procedures specified in the Reference Method used to determine the opacity of the visible emissions);

4. The date and time identifying each period during which the COMS was inoperative (except for zero and span checks), including the nature and frequency of system repairs or adjustments that were made during these times; and

5. If no excess emissions have occurred during the reporting period and the COMS has not been inoperative, repaired, or adjusted, this information shall be stated in the report.

(B) COMS Records to be Maintained. Owners or operators of affected ~~sources~~ **emission units** shall maintain a file (hard copy or electronic version) of the following information for a minimum of two (2) years from the date the data was collected:

1. All information reported in the quarterly summaries; and

2. All six (6)-minute opacity averages and daily Quality Assurance (QA)/Quality Control (QC) records.

(5) Test Methods.

(A) ~~Emissions from Stationary Sources Use one (1) of the following four (4) methods:~~

~~1. Qualified observer in accordance with 10 CSR 10-6.030(9)(A), Reference Method 9-Visual Determination of the Opacity of Emissions from Stationary Sources.~~

~~2. Qualified observer in accordance with the provisions of 40 CFR part 51, Appendix M Recommended Test Methods, Method 203A-Visual Determination of Opacity of Emissions from Stationary Sources for Time Averaged Regulations, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;~~

~~3. Qualified observer in accordance with the provisions of 40 CFR part 51, Appendix M Recommended Test Methods, Method 203B-Visual Determination of Opacity of Emissions from Stationary Sources for Time Exception Regulations, promulgated as of July 1,~~

~~2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions; or~~

~~4. Continuous Opacity Monitoring System that complies with and is installed, calibrated, maintained, and operated in accordance with proposed Test Method 203 Visual Determination of the Opacity of Emissions from Stationary Sources by Continuous Opacity Monitoring Systems (as proposed in the October 7, 1992, Federal Register, Volume 57, pp. 46114-46119).~~

~~(B) Emissions from Mobile Internal Combustion Engines Use a qualified observer in accordance with the provisions of 40 CFR part 60, Appendix A Test Methods, Method 22 Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. Photogrammetric opacity measurement in accordance with EPA Method ALT-082- Digital camera opacity technique.~~

~~(C) Fugitive Emissions from Material Sources, Smoke Emissions from Flares and As Required by Permit Condition Use a qualified observer in accordance with the provisions of 40 CFR part 60, Appendix A Test Methods, Method 22 Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, promulgated as of July 1, 2007, and hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. A modification of the test methods listed in subsections (5)(A) or (5)(B) of this rule. Any modification of a test method listed in subsections (5)(A) or (5)(B) of this rule must be approved by the director and the EPA; and incorporated into this rule and the SIP prior to implementation.~~